

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 4:36 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Urgent question from a reporter

Someone doesn't know what to say

(b) (6), (b) (7)(C)

Public Affairs Specialist
US Customs and Border Protection

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 4:24:16 PM
To: (b) (6), (b) (7)(C)
Subject: FW: Urgent question from a reporter

Is this a new strategy: "CBP declines to comment."

(b) (6), (b) (7)(C)

Public Affairs Officer
U.S. Customs and Border Protection
Office (b) (6), (b) (7)(C); Mobile (b) (6), (b) (7)(C)
Follow me on Twitter [@CBPMidAtlantic](#)

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 5:06 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Urgent question from a reporter

"CBP declines to comment."

(b) (6), (b) (7)(C)

Department of Homeland Security
U.S. Customs and Border Protection
Office of Public Affairs / Media Division

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 5:03:21 PM
To: CBP Media Relations
Subject: Urgent question from a reporter

Hello—is CBP planning to respond to Senator Wyden's request for a review of the summons sent to Twitter re: anonymous user @ALT_USCIS?

Thank you,

(b) (6), (b) (7)(C)

Technology Reporter @ The Intercept

Cell/Signal: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

-----BEGIN PGP SIGNATURE-----

(b) (6), (b) (7)(C)

-----END PGP SIGNATURE-----

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 3:15 PM
To: (b) (6), (b) (7)(C)
Subject: FW: Urgent - "ALT_Account" case

fyi

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel
(Enforcement & Operations)
Office of Chief Counsel
U.S. Customs and Border Protection
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

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From (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 3:29 PM
To: Maher, Joseph <(b) (6), (b) (7)(C)>
Cc: FALK, SCOTT K (OCC) (b) (6), (b) (7)(C); HIGHSMITH, ANNMARIE (OCC)
(b) (6), (b) (7)(C); COUREY, MARC BENNETT (OCC) (b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

Hello:

(b) (5)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel
(Enforcement & Operations)
Office of Chief Counsel
U.S. Customs and Border Protection
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

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From: Maher, Joseph

Sent: Friday, April 07, 2017 1:08 PM

To: COUREY, MARC BENNETT (OCC) (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR) <(b) (6), (b) (7)(C)>

(b) (6), (b) (7)(C)

FALK, SCOTT K (OCC) <(b) (6), (b) (7)(C)>

HIGHSMITH, ANNMARIE (OCC)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

Looks good, thanks Bennett.

From: COUREY, MARC BENNETT (OCC)

Sent: Friday, April 07, 2017 12:59:21 PM

To: Maher, Joseph; (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C) FALK, SCOTT K (OCC); HIGHSMITH, ANNMARIE (OCC);

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5), (b) (6), (b) (7)(C)

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T (b) (6), (b) (7)(C) / C. (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: Maher, Joseph

Sent: Friday, April 7, 2017 11:30 AM

To: COUREY, MARC BENNETT (OCC) (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR) <(b) (6), (b) (7)(C)>

(b) (6), (b) (7)(C)

FALK, SCOTT K (OCC) <(b) (6), (b) (7)(C)>

HIGHSMITH, ANNMARIE (OCC)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

Thanks very much, Bennett.

From: COUREY, MARC BENNETT (OCC)

Sent: Friday, April 7, 2017 11:21 AM

To: (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C); Maher, Joseph (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC)

(b) (6), (b) (7)(C); HIGHSMITH, ANNMARIE (OCC) (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

Please do not hesitate to call to discuss. Thanks again.

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T: (b) (6), (b) (7)(C) / C: (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: COUREY, MARC BENNETT (OCC)

Sent: Thursday, April 06, 2017 8:14:38 PM

To: (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR); Maher, Joseph; (b) (6), (b) (7)(C); FALK, SCOTT K (OCC); HIGHSMITH, ANNMARIE (OCC); (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

Thank you, (b) (5), (b) (6), (b) (7)(C) I'm available to discuss any time.

(b) (6), (b) (7)(C)

CBP Associate Chief Counsel (Enforcement and Operations)

T: (b) (6), (b) (7)(C) / C: (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: (b) (6), (b) (7)(C)

Sent: Thursday, April 06, 2017 8:08:06 PM

To: (b) (6), (b) (7)(C)

Cc: COUREY, MARC BENNETT (OCC); FUNN, ERICK K (OPR)

Subject: FW: Urgent - "ALT_Account" case

(b) (6), (b) (7)(C)

(b) (5)

(b) (6), (b) (7)(C)

From: COUREY, MARC BENNETT (OCC)

Sent: Friday, April 07, 2017 1:00:51 AM

To: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)

Cc: KARISCH, RODOLFO; FALK, SCOTT K (OCC); HIGHSMITH, ANNMARIE (OCC); (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5), (b) (6), (b) (7)(C)

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T: (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: COUREY, MARC BENNETT (OCC)

Sent: Thursday, April 06, 2017 7:51 PM

To: FUNN, ERICK K (OPR) <(b) (6), (b) (7)(C)>

Cc: KARISCH, RODOLFO <(b) (6), (b) (7)(C)>

FALK, SCOTT K (OCC)

(b) (6), (b) (7)(C)

HIGHSMITH, ANNMARIE (OCC) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

Feel free to call my cell to discuss. Thanks.

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T: (b) (6), (b) (7)(C) / C: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: FUNN, ERICK K (OPR)

Sent: Thursday, April 06, 2017 7:47 PM

To: (b) (6), (b) (7)(C)

Cc: KARISCH, RODOLFO (b) (6), (b) (7)(C)

COUREY, MARC BENNETT (OCC)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Thursday, April 06, 2017 7:40:55 PM

To: FUNN, ERICK K (OPR)

Cc: KARISCH, RODOLFO; COUREY, MARC BENNETT (OCC)

Subject: Urgent - "ALT_Account" case

Erick-

(b) (5), (b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 1:11 PM
To: FUNN, ERICK K (OPR)
Subject: RE: Urgent - "ALT_Account" case

Thanks, Erick. It was a pleasure working with you and your staff -- as Bennett said, feel free to reach out any time if you need our assistance. (b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)
Sent: Friday, April 07, 2017 7:07:27 PM
To: (b) (6), (b) (7)(C)
Subject: FW: Urgent - "ALT_Account" case

Thank you very much for your help. I really appreciate your sage counsel and calm approach.

Erick

From: COUREY, MARC BENNETT (OCC)
Sent: Friday, April 7, 2017 2:05 PM
To: FUNN, ERICK K (OPR) <(b) (6), (b) (7)(C)>
Cc: (b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

Absolutely happy to help you guys any time. (b) (5), (b) (6), (b) (7)(C)

Bennett Courey
CBP Associate Chief Counsel (Enforcement and Operations)
T (b) (6), (b) (7)(C) C (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
** Attorney Work Product / Attorney-Client Privileged **

From: FUNN, ERICK K (OPR)
Sent: Friday, April 07, 2017 1:12:57 PM
To: COUREY, MARC BENNETT (OCC)
Subject: RE: Urgent - "ALT_Account" case

Bennett

(b) (5)

Erick

From: COUREY, MARC BENNETT (OCC)
Sent: Friday, April 7, 2017 12:59 PM

To: Maher, Joseph <(b) (6), (b) (7)(C)>

Cc: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC) (b) (6), (b) (7)(C)

HIGHSMITH, ANNMARIE (OCC)

<(b) (6), (b) (7)(C)>

Subject: RE: Urgent - "ALT_Account" case

(b) (5), (b) (6), (b) (7)(C)

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T: (b) (6), (b) (7)(C) C: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: Maher, Joseph

Sent: Friday, April 7, 2017 11:30 AM

To: COUREY, MARC BENNETT (OCC) (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC) <(b) (6), (b) (7)(C)>

HIGHSMITH, ANNMARIE (OCC)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

Thanks very much, Bennett.

From: COUREY, MARC BENNETT (OCC)

Sent: Friday, April 7, 2017 11:21 AM

To: (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR) <(b) (6), (b) (7)(C)> Maher, Joseph (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC)

(b) (6), (b) (7)(C) HIGHSMITH, ANNMARIE (OCC) <(b) (6), (b) (7)(C)>

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

Please do not hesitate to call to discuss. Thanks again.

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T. (b) (6), (b) (7)(C) / C. (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: COUREY, MARC BENNETT (OCC)

Sent: Thursday, April 06, 2017 8:14:38 PM

To: (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR); Maher, Joseph; (b) (6), (b) (7)(C) FALK, SCOTT K (OCC); HIGHSMITH, ANNMARIE (OCC); (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

Thank you (b) (5), (b) (6), (b) (7)(C) I'm available to discuss any time.

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T. (b) (6), (b) (7)(C) / C. (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: (b) (6), (b) (7)(C)

Sent: Thursday, April 06, 2017 8:08:06 PM

To: (b) (6), (b) (7)(C)

Cc: COUREY, MARC BENNETT (OCC); FUNN, ERICK K (OPR)

Subject: FW: Urgent - "ALT_Account" case

(b) (6), (b) (7)(C)

(b) (5)

(b) (6), (b) (7)(C)

From: COUREY, MARC BENNETT (OCC)

Sent: Friday, April 07, 2017 1:00:51 AM

To: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)

Cc: KARISCH, RODOLFO; FALK, SCOTT K (OCC); HIGHSMITH, ANNMARIE (OCC); (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5), (b) (6), (b) (7)(C)

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T. (b) (6), (b) (7)(C) / C. (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: COUREY, MARC BENNETT (OCC)

Sent: Thursday, April 06, 2017 7:51 PM

To: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)

Cc: KARISCH, RODOLFO; (b) (6), (b) (7)(C) FALK, SCOTT K (OCC) (b) (6), (b) (7)(C)

HIGHSMITH, ANNMARIE (OCC); (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

Feel free to call my cell to discuss. Thanks.

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T (b) (6), (b) (7)(C) C. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: FUNN, ERICK K (OPR)

Sent: Thursday, April 06, 2017 7:47 PM

To: (b) (6), (b) (7)(C)

Cc: KARISCH, RODOLFO (b) (6), (b) (7)(C) COUREY, MARC BENNETT (OCC)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Thursday, April 06, 2017 7:40:55 PM

To: FUNN, ERICK K (OPR)

Cc: KARISCH, RODOLFO; COUREY, MARC BENNETT (OCC)

Subject: Urgent - "ALT_Account" case

Erick-

(b) (5), (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: Maher, Joseph
Sent: Friday, April 07, 2017 3:11 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

Ok, thanks.

From: (b) (6), (b) (7)(C)
Sent: Friday, April 7, 2017 3:47 PM
To: Maher, Joseph (b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

(b) (5)

(b) (6), (b) (7)(C)
Deputy Associate Chief Counsel
(Enforcement & Operations)
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

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From: Maher, Joseph
Sent: Friday, April 07, 2017 3:35 PM
To: (b) (6), (b) (7)(C)
Cc: FALK, SCOTT K (OCC) (b) (6), (b) (7)(C); HIGHSMITH, ANNMARIE (OCC)
(b) (6), (b) (7)(C); COUREY, MARC BENNETT (OCC) (b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

Thanks for your work on this (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 3:29:06 PM
To: Maher, Joseph
Cc: FALK, SCOTT K (OCC); HIGHSMITH, ANNMARIE (OCC); COUREY, MARC BENNETT (OCC)
Subject: RE: Urgent - "ALT_Account" case

Hello:

(b) (5)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel
(Enforcement & Operations)
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

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From: Maher, Joseph

Sent: Friday, April 07, 2017 1:08 PM

To: COUREY, MARC BENNETT (OCC) (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC) <SCOTT.K.FALK@CBP.DHS.GOV>; HIGHSMITH, ANNMARIE (OCC)
(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

Looks good, thanks Bennett.

From: COUREY, MARC BENNETT (OCC)

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To: Maher, Joseph; (b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C)

FALK, SCOTT K (OCC);

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5), (b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T. (b) (6), (b) (7)(C) C. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: Maher, Joseph

Sent: Friday, April 7, 2017 11:30 AM

To: COUREY, MARC BENNETT (OCC) (b) (6), (b) (7)(C)

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FALK, SCOTT K (OCC) (b) (6), (b) (7)(C)

HIGHSMITH, ANNMARIE (OCC)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

Thanks very much, Bennett.

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To: (b) (6), (b) (7)(C)

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Maier, Joseph (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC)

(b) (6), (b) (7)(C)

HIGHSMITH, ANNMARIE (OCC) (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

Please do not hesitate to call to discuss. Thanks

again.

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T. (b) (6), (b) (7)(C) C. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: COUREY, MARC BENNETT (OCC)

Sent: Thursday, April 06, 2017 8:14:38 PM

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Cc: FUNN, ERICK K (OPR); Maher, Joseph; (b) (6), (b) (7)(C)

ANNMARIE (OCC); (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

Thank you, (b) (5), (b) (6), (b) (7)(C)

I'm available to discuss any time.

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T (b) (6), (b) (7)(C) / C (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

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To: (b) (6), (b) (7)(C)

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Subject: FW: Urgent - "ALT_Account" case

(b) (6), (b) (7)(C)

(b) (5)

(b) (6), (b) (7)(C)

From: COUREY, MARC BENNETT (OCC)

Sent: Friday, April 07, 2017 1:00:51 AM

To: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)

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Subject: RE: Urgent - "ALT_Account" case

(b) (5), (b) (6), (b) (7)(C)

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T (b) (6), (b) (7)(C) / C (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: COUREY, MARC BENNETT (OCC)

Sent: Thursday, April 06, 2017 7:51 PM

To: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)

Cc: KARISCH, RODOLFO; (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC)

(b) (6), (b) (7)(C)

HIGHSMITH, ANNMARIE (OCC); (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

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Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T (b) (6), (b) (7)(C) / C (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: FUNN, ERICK K (OPR)

Sent: Thursday, April 06, 2017 7:47 PM

To: (b) (6), (b) (7)(C)

Cc: KARISCH, RODOLFO; (b) (6), (b) (7)(C)

COUREY, MARC BENNETT (OCC)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Thursday, April 06, 2017 7:40:55 PM

To: FUNN, ERICK K (OPR)

Cc: KARISCH, RODOLFO; COUREY, MARC BENNETT (OCC)

Subject: Urgent - "ALT_Account" case

Erick-

(b) (5), (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 3:00 PM
To: FUNN, ERICK K (OPR)
Subject: RE: Urgent - "ALT_Account" case

Please disregard below (b) (6), (b) (7)(C) Thanks. Have a good weekend. (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel
(Enforcement & Operations)
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

This document, and any attachment(s), may contain information which is law enforcement sensitive, attorney-client privileged, attorney work-product, or U.S. Government information. It is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please consult with the CBP Office of Chief Counsel before disclosing any information contained in this message or any attachment(s).

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 2:26 PM
To: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

Hi, can you give me a quick call when you get a chance? Thanks.

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel
(Enforcement & Operations)
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

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From: FUNN, ERICK K (OPR)
Sent: Friday, April 07, 2017 2:07 PM
To: (b) (6), (b) (7)(C)
Subject: FW: Urgent - "ALT_Account" case

Thank you very much for your help. I really appreciate your sage counsel and calm approach.

Erick

From: COUREY, MARC BENNETT (OCC)
Sent: Friday, April 7, 2017 2:05 PM
To: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

Absolutely happy to help you guys any time. (b) (5), (b) (6), (b) (7)(C)

Bennett Courey
CBP Associate Chief Counsel (Enforcement and Operations)
T. (b) (6), (b) (7)(C) / C. (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)
** Attorney Work Product / Attorney-Client Privileged **

From: FUNN, ERICK K (OPR)
Sent: Friday, April 07, 2017 1:12:57 PM
To: COUREY, MARC BENNETT (OCC)
Subject: RE: Urgent - "ALT_Account" case

Bennett

(b) (5)

Erick

From: COUREY, MARC BENNETT (OCC)
Sent: Friday, April 7, 2017 12:59 PM
To: Maher, Joseph (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC) (b) (6), (b) (7)(C)

HIGHSMITH, ANNMARIE (OCC)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5), (b) (6), (b) (7)(C)

Bennett Courey
CBP Associate Chief Counsel (Enforcement and Operations)
T. (b) (6), (b) (7)(C) / C. (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)

From: Maher, Joseph

Sent: Friday, April 7, 2017 11:30 AM

To: COUREY, MARC BENNETT (OCC) (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

ALK, SCOTT K (OCC) (b) (6), (b) (7)(C)

HIGHSMITH, ANNMARIE (OCC)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

Thanks very much, Bennett.

From: COUREY, MARC BENNETT (OCC)

Sent: Friday, April 7, 2017 11:21 AM

To: (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

Maier, Joseph (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC)

(b) (6), (b) (7)(C)

HIGHSMITH, ANNMARIE (OCC) (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

Please do not hesitate to call to discuss. Thanks

again.

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T. (b) (6), (b) (7)(C) C. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: COUREY, MARC BENNETT (OCC)

Sent: Thursday, April 06, 2017 8:14:38 PM

To: (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR); Maier, Joseph; (b) (6), (b) (7)(C) FALK, SCOTT K (OCC); HIGHSMITH, ANNMARIE (OCC); (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

Thank you, (b) (5), (b) (6), (b) (7)(C) I'm available to discuss any time.

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T. (b) (6), (b) (7)(C) C. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: (b) (6), (b) (7)(C)

Sent: Thursday, April 06, 2017 8:08:06 PM

To: (b) (6), (b) (7)(C)
Cc: COUREY, MARC BENNETT (OCC); FUNN, ERICK K (OPR)
Subject: FW: Urgent - "ALT_Account" case

(b) (6), (b) (7)(C)

(b) (5)

(b) (6), (b) (7)(C)

From: COUREY, MARC BENNETT (OCC)
Sent: Friday, April 07, 2017 1:00:51 AM
To: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C) FALK, SCOTT K (OCC); HIGHSMITH, ANNMARIE (OCC); (b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

(b) (5), (b) (6), (b) (7)(C)

Bennett Courey
CBP Associate Chief Counsel (Enforcement and Operations)
T (b) (6), (b) (7)(C) C (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
** Attorney Work Product / Attorney-Client Privileged **

From: COUREY, MARC BENNETT (OCC)
Sent: Thursday, April 06, 2017 7:51 PM
To: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)
Cc: KARISCH, RODOLFO (b) (6), (b) (7)(C) FALK, SCOTT K (OCC) (b) (6), (b) (7)(C)
HIGHSMITH, ANNMARIE (OCC) (b) (6), (b) (7)(C)
<LESLEYANNE.KESSLER@CBP.DHS.GOV>
Subject: RE: Urgent - "ALT_Account" case

(b) (5)

Feel free to call my cell to discuss. Thanks.

Bennett Courey
CBP Associate Chief Counsel (Enforcement and Operations)
T (b) (6), (b) (7)(C) C (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
** Attorney Work Product / Attorney-Client Privileged **

From: FUNN, ERICK K (OPR)
Sent: Thursday, April 06, 2017 7:47 PM
To: (b) (6), (b) (7)(C)
Cc: KARISCH, RODOLFO (b) (6), (b) (7)(C) COUREY, MARC BENNETT (OCC)
(b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Thursday, April 06, 2017 7:40:55 PM

To: FUNN, ERICK K (OPR)

Cc: KARISCH, RODOLFO; COUREY, MARC BENNETT (OCC)

Subject: Urgent - "ALT_Account" case

Erick-

(b) (5), (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)
Sent: Friday, April 07, 2017 12:16 PM
To: KARISCH, RODOLFO
Cc: (b) (6), (b) (7)(C)
Subject: FW: Urgent - "ALT_Account" case

AC

OIG acknowledged receipt of the summary and documents. (b) (6), (b) (7)(C) is preparing a CD of all the related documents to send to the OIG.

Erick

From: (b) (6), (b) (7)(C)
Sent: Friday, April 7, 2017 12:53 PM
To: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

Erick,

Thanks for the quick turnaround.

(b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)
Sent: Friday, April 07, 2017 12:17 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

(b) (6), (b) (7)(C)

Attached are several documents which should be what you need. The executive summary is a good place to start as it captures OPR's involvement and actions in the case. The other documents are listed below. Will get with (b) (6), (b) (7)(C) to ensure you get all of the case related documents. We will burn them onto a CD and deliver them to you.

1. Executive Summary
2. First email dump from @alt_uscis – 1 – 50
3. @alt_uscis screenshots
4. Twitter lawsuit
5. Copy of faxed Twitter summons
6. Email from CBP Chief of Staff to AC Rudy Karisch initiating the investigation.

Erick

From: (b) (6), (b) (7)(C)
Sent: Friday, April 7, 2017 9:49 AM

To: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

Subject: FW: Urgent - "ALT_Account" case

Good Morning Erick,

Would you provide an estimate with regard to when we can have a case report on this investigation. Please include all investigative reports. We want to know what investigative steps have been taken and what information (including classifications) was posted to the Twitter account which ultimately lead OPR to issue this summons.

Thanks,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

**Deputy Assistant Inspector General - Investigations
Department of Homeland Security
Office of Inspector General
Washington, D.C.**

Office: (b) (6), (b) (7)(C)

Cellular: (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Thursday, April 06, 2017 7:41 PM

To: FUNN, ERICK K (OPR)

Cc: KARISCH, RODOLFO; COUREY, MARC BENNETT (OCC)

Subject: Urgent - "ALT_Account" case

Erick-

(b) (5), (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)
Sent: Friday, April 07, 2017 12:12 PM
To: KARISCH, RODOLFO
Cc: (b) (6), (b) (7)(C)
Subject: FW: Urgent - "ALT_Account" case

AC

FYI

Erick

From: COUREY, MARC BENNETT (OCC)
Sent: Friday, April 07, 2017 12:59:21 PM
To: Maher, Joseph; (b) (6), (b) (7)(C)
Cc: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C); FALK, SCOTT K (OCC); HIGHSMITH, ANNMARIE (OCC);
(b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

(b) (5), (b) (6), (b) (7)(C)

Bennett Courey
CBP Associate Chief Counsel (Enforcement and Operations)
T (b) (6), (b) (7)(C) / C (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)
** Attorney Work Product / Attorney-Client Privileged **

From: Maher, Joseph
Sent: Friday, April 7, 2017 11:30 AM
To: COUREY, MARC BENNETT (OCC); (b) (6), (b) (7)(C)
Cc: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C); FALK, SCOTT K (OCC); (b) (6), (b) (7)(C); HIGHSMITH, ANNMARIE (OCC);
(b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

Thanks very much, Bennett.

From: COUREY, MARC BENNETT (OCC)

Sent: Friday, April 7, 2017 11:21 AM

To: (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C); Maher, Joseph; (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC)

(b) (6), (b) (7)(C); HIGHSMITH, ANNMARIE (OCC); (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

Please do not hesitate to call to discuss. Thanks again.

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T: (b) (6), (b) (7)(C) C: (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: COUREY, MARC BENNETT (OCC)

Sent: Thursday, April 06, 2017 8:14:38 PM

To: (b) (6), (b) (7)(C)

Cc: FUNN, ERICK K (OPR); Maher, Joseph; (b) (6), (b) (7)(C); FALK, SCOTT K (OCC); HIGHSMITH, ANNMARIE (OCC); (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

Thank you, (b) (5), (b) (6), (b) (7)(C) I'm available to discuss any time.

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T: (b) (6), (b) (7)(C) C: (b) (6), (b) (7)(C) / (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: (b) (6), (b) (7)(C)

Sent: Thursday, April 06, 2017 8:08:06 PM

To: (b) (6), (b) (7)(C)

Cc: COUREY, MARC BENNETT (OCC); FUNN, ERICK K (OPR)

Subject: FW: Urgent - "ALT_Account" case

(b) (6), (b) (7)(C)

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From: COUREY, MARC BENNETT (OCC)

Sent: Friday, April 07, 2017 1:00:51 AM

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Cc: KARISCH, RODOLFO; FALK, SCOTT K (OCC); HIGHSMITH, ANNMARIE (OCC); (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5), (b) (6), (b) (7)(C)

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T: (b) (6), (b) (7)(C) C: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: COUREY, MARC BENNETT (OCC)

Sent: Thursday, April 06, 2017 7:51 PM

To: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C) FALK, SCOTT K (OCC) (b) (6), (b) (7)(C)

HIGHSMITH, ANNMARIE (OCC) (b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

Feel free to call my cell to discuss. Thanks.

Bennett Courey

CBP Associate Chief Counsel (Enforcement and Operations)

T: (b) (6), (b) (7)(C) C: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

** Attorney Work Product / Attorney-Client Privileged **

From: FUNN, ERICK K (OPR)

Sent: Thursday, April 06, 2017 7:47 PM

To: (b) (6), (b) (7)(C)

Cc: KARISCH, RODOLFO (b) (6), (b) (7)(C) COUREY, MARC BENNETT (OCC)

(b) (6), (b) (7)(C)

Subject: RE: Urgent - "ALT_Account" case

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Thursday, April 06, 2017 7:40:55 PM

To: FUNN, ERICK K (OPR)

Cc: KARISCH, RODOLFO; COUREY, MARC BENNETT (OCC)

Subject: Urgent - "ALT_Account" case

Erick-

(b) (5), (b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)
Sent: Friday, April 07, 2017 2:16 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

Perfect. Thanks.

From: (b) (6), (b) (7)(C)
Sent: Friday, April 7, 2017 3:15 PM
To: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

Erick,

(b) (5)

Best Regards,

(b) (6), (b) (7)(C)

Assistant Special Agent in Charge

(b) (6), (b) (7)(C) Washington Office
(b) (6), (b) (7)(C) Miami Office
(b) (6), (b) (7)(C) Cellular
(b) (6), (b) (7)(C) Miami Lab
(b) (6), (b) (7)(C)

U.S. Customs & Border Protection
Office of Professional Responsibility

(b) (7)(E)

(b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)
Sent: Friday, April 07, 2017 12:18 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)

Subject: FW: Urgent - "ALT_Account" case
Importance: High

(b) (6), (b) (7)(C)

For immediate action.

Erick

From: FUNN, ERICK K (OPR)
Sent: Friday, April 7, 2017 12:17 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Urgent - "ALT_Account" case

(b) (6), (b) (7)(C)

Attached are several documents which should be what you need. The executive summary is a good place to start as it captures OPR's involvement and actions in the case. The other documents are listed below. Will get with (b) (6), (b) (7)(C) to ensure you get all of the case related documents. We will burn them onto a CD and deliver them to you.

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From: (b) (6), (b) (7)(C)
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(b) (6), (b) (7)(C)

Deputy Assistant Inspector General - Investigations
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Office of Inspector General
Washington, D.C.

Office: (b) (6), (b) (7)(C)
Cellular: (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

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To: FUNN, ERICK K (OPR)

Cc: KARISCH, RODOLFO; COUREY, MARC BENNETT (OCC)

Subject: Urgent - "ALT_Account" case

(b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (7)(E)

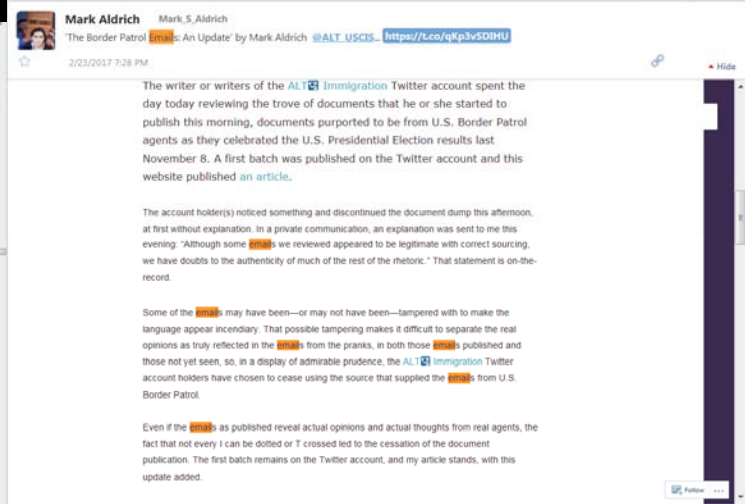
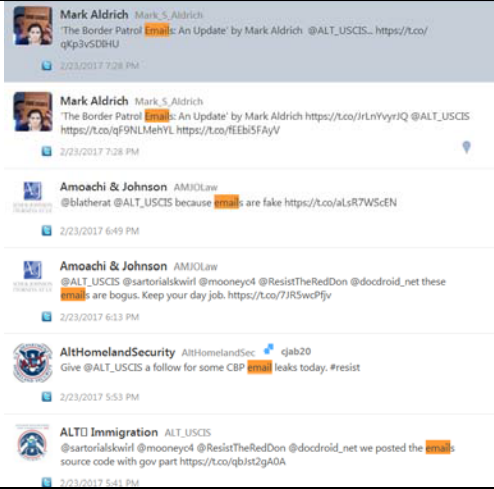


(b) (7)(E)



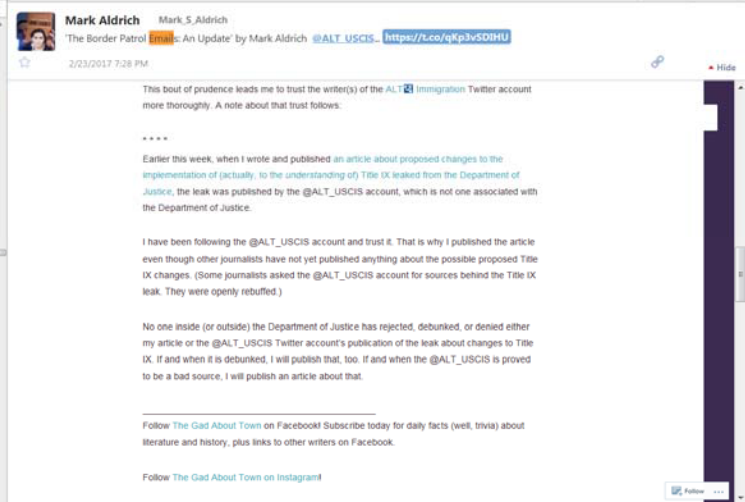
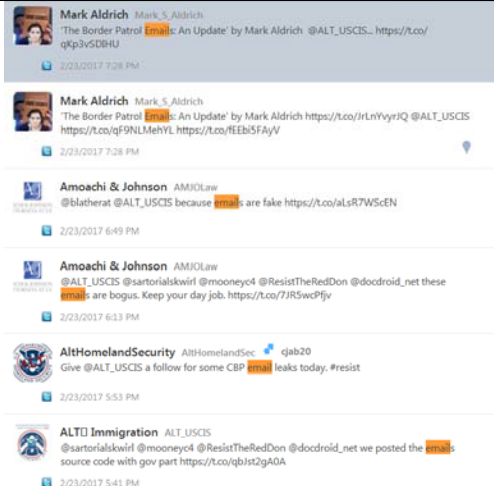
(b) (7)(E)

(b) (7)(E)



(b) (7)(E)

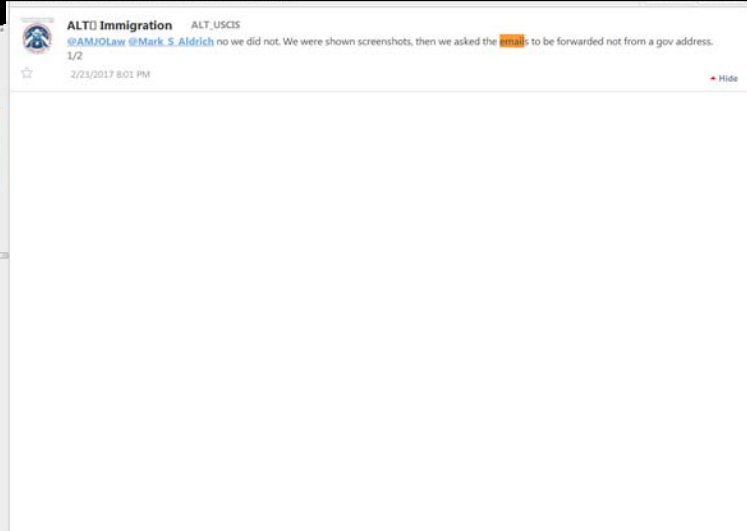
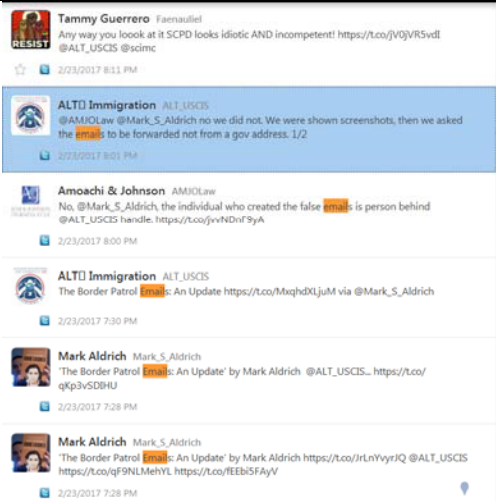
(b) (7)(E)



(b) (7)(E)

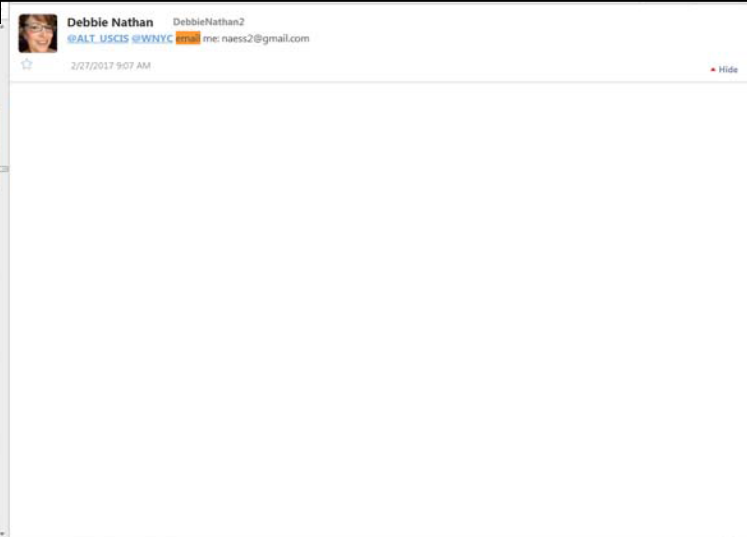
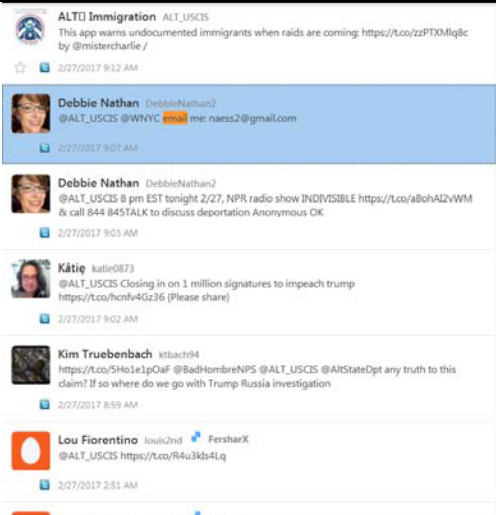
(b) (7)(E)

(b) (7)(E)



(b) (7)(E)

(b) (7)(E)



(b) (7)(E)

1 SETH P. WAXMAN (*pro hac vice* pending) seth.waxman@wilmerhale.com
2 PATRICK J. CAROME (*pro hac vice* pending) patrick.carome@wilmerhale.com
3 ARI HOLTZBLATT (*pro hac vice* pending) ari.holtzblatt@wilmerhale.com
4 WILMER CUTLER PICKERING
5 HALE AND DORR LLP
6 1875 Pennsylvania Avenue, NW
7 Washington, D.C. 20006
Telephone: (202) 663-6000
Facsimile: (202) 663-6363

MARK D. FLANAGAN (CA SBN 130303) mark.flanagan@wilmerhale.com
WILMER CUTLER PICKERING
HALE AND DORR LLP
950 Page Mill Road
Palo Alto, California 94304
Telephone: (650) 858-6000
Facsimile: (650) 858-6100

Attorneys for Plaintiff
TWITTER, INC.

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 TWITTER, INC.,

11 Plaintiff,

12 v.

13 U.S. DEPARTMENT OF HOMELAND
14 SECURITY; U.S. CUSTOMS AND
15 BORDER PROTECTION; JOHN F. KELLY,
16 in his official capacity as Secretary of
17 Homeland Security; KEVIN K.
18 MCALEENAN, in his official capacity as
19 Acting Commissioner, U.S. Customs and
20 Border Protection; STEPHEN P. CARUSO,
in his official capacity as Special Agent In
Charge, U.S. Customs and Border Protection;
and ADAM HOFFMAN, in his official
capacity as Special Agent, U.S. Customs and
Border Protection,

21 Defendants.

Case No. _____

22 **COMPLAINT**

23 Plaintiff Twitter, Inc. ("Twitter"), by and through its attorneys, hereby alleges:

24 **INTRODUCTION**

25 1. This is an action to prevent the U.S. Department of Homeland Security ("DHS"),
26 U.S. Customs and Border Protection ("CBP"), and the individual Defendants from unlawfully
27 abusing a limited-purpose investigatory tool to try to unmask the real identity of one or more
28 persons who have been using Twitter's social media platform, and specifically a Twitter account

1 named @ALT_USCIS, to express public criticism of the Department and the current
2 Administration. The rights of free speech afforded Twitter's users and Twitter itself under the
3 First Amendment of the U.S. Constitution include a right to disseminate such anonymous or
4 pseudonymous political speech. In these circumstances, Defendants may not compel Twitter to
5 disclose information regarding the real identities of these users without first demonstrating that
6 some criminal or civil offense has been committed, that unmasking the users' identity is the least
7 restrictive means for investigating that offense, that the demand for this information is not
8 motivated by a desire to suppress free speech, and that the interests of pursuing that investigation
9 outweigh the important First Amendment rights of Twitter and its users. But Defendants have
10 not come close to making any of those showings. And even if Defendants could otherwise
11 demonstrate an appropriate basis for impairing the First Amendment interests of Twitter and its
12 users, they certainly may not do so using the particular investigatory tool employed here—which
13 Congress authorized solely to ensure compliance with federal laws concerning imported
14 merchandise—because it is apparent that whatever investigation Defendants are conducting here
15 does not pertain to imported merchandise.

16 2. In the days and weeks following the inauguration of President Donald J. Trump, a
17 new and innovative class of American speakers emerged on Twitter's ubiquitous online
18 platform: speakers who purport to be current or former employees of federal agencies, or others
19 with special insights about the agencies, who provide views and commentary that is often
20 vigorously opposed, resistant, or "alternative" to the official actions and policies of the new
21 Administration. Typically, these so-called "alternative agency" accounts are named and self-
22 described by their users in a manner that both (a) identifies the particular federal agency that the
23 user seeks primarily to criticize and with which the user purports to have significant knowledge,
24 and (b) proclaims that the user is not an official voice or spokesperson for the agency. Examples
25 of these accounts include @alt_labor, which purports to provide informed but unofficial
26 commentary on the U.S. Department Labor, and @blm_alt, which does the same for the federal
27 Bureau of Land Management. Dozens of such accounts have sprung up, and many of them are
28 actively used to disseminate criticism of the Administration and its policies. Many of these

1 accounts have attracted large audiences of other Twitter users (“followers”), often numbering in
2 the tens of thousands or more.

3 3. Like many Twitter users, those who speak through these “alternative agency”
4 accounts do so pseudonymously, often going to considerable lengths to avoid disclosing their
5 real identities. The motivations these users have for preserving their anonymity presumably
6 include a desire to speak freely and without the fear of negative consequences that may flow
7 from being identified as the source of controversial views and commentary concerning the
8 Administration and its agencies. Such fears are likely to be especially great for users of
9 “alternative agency” accounts who are currently employed by the very agency that is a principal
10 target of the commentary, in light of the retaliation, harassment, or even loss of livelihood that
11 might occur if their real identities became known to their superiors.

12 4. One such “alternative agency” account is @ALT_USCIS. Like other accounts of
13 this sort, @ALT_USCIS claims to be run by one or more current government employees—in this
14 case, employees of the United States Citizenship and Immigration Services (“USCIS”), a unit
15 within the Defendant DHS. And as with other such accounts, the person or persons who
16 established and speak through @ALT_USCIS have identified themselves only by means of this
17 pseudonymous account name. To the best of Twitter’s knowledge, they have not disclosed their
18 real identities in any of their public communications through this account.

19 5. In the just over two months since it was created, @ALT_USCIS has frequently
20 criticized the immigration policies of the new Administration, highlighted what the user views as
21 a history of waste and mismanagement within USCIS and DHS, and publicized facts that the
22 account’s users portray as casting doubt on Administration policies.

23 6. The Defendants are now threatening the anonymity of the person(s) speaking
24 through the @ALT_USCIS account. Specifically, on March 14, 2017, they issued and delivered
25 to Twitter an administrative summons (the “CBP Summons”) demanding that Twitter provide
26 them records that would unmask, or likely lead to unmasking, the identity of the person(s)
27 responsible for the @ALT_USCIS account. The summons was issued by a Special Agent in
28

Charge within U.S. Customs and Border Protection, another unit of DHS. The CBP Summons is unlawful and must be enjoined for two reasons.

7. *First*, the sole statutory authority CBP invoked in issuing the summons—19 U.S.C. § 1509—authorizes the agency to compel production of only a narrow class of records relating to the importation of merchandise. But CBP’s investigation of the @ALT_USCIS account plainly has nothing whatsoever to do with the importation of merchandise into the United States. Section 1509 thus provides CBP no power to compel Twitter to reveal information pertaining to the identity of the individual(s) behind the @ALT_USCIS account.

8. *Second*, permitting CBP to pierce the pseudonym of the @ALT_USCIS account would have a grave chilling effect on the speech of that account in particular and on the many other “alternative agency” accounts that have been created to voice dissent to government policies. The Supreme Court has long recognized the extraordinary value of the kind of speech emanating from these accounts—pure political speech criticizing government policies and highlighting government waste and mismanagement. And the Court has likewise recognized that anonymity is often essential to fostering such political speech where, as here, the speaker could face retaliation or retribution if his or her real identity were linked to the speech. In this context, the CBP Summons must be declared unlawful and enjoined absent an evidentiary showing by Defendants that some criminal or civil offense has been committed, that unmasking the users’ identity is the least restrictive means for investigating that offense, that the demand for this information is not motivated by a desire to suppress free speech, and that the interests of pursuing that investigation outweigh the important free speech rights of Twitter and its users. Defendants have not even attempted to meet that burden.

9. For these and other reasons discussed below, Twitter respectfully requests that this Court declare the summons unlawful and enjoin its enforcement.

JURISDICTION AND VENUE

10. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the First Amendment to the U.S. Constitution, the Administrative Procedure Act (“APA”), the Tariff Act of 1930, as amended, and other Federal statutes.

12. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) and (e)(1). A substantial part of the events giving rise to this claim occurred in this District, and each Defendant is an officer or agency of the United States sued in his or its official capacity.

13. Twitter is a Delaware corporation with its principal place of business at 1355 Market Street, San Francisco, CA 94103. Twitter operates a global platform for self-expression and communication, with the mission of giving everyone the power to create and share ideas and information instantly. Twitter’s more than 300 million active monthly users use the platform to connect with others, express ideas, and discover new information. Hundreds of millions of short messages (known as “Tweets”) are posted on Twitter every day. Twitter provides these services at no charge to its users.

15. The U.S. Customs and Border Protection is an agency within DHS. It is responsible for managing and controlling the border of the United States, including with respect to import customs, immigration, border security, and agricultural protection.

16. John F. Kelly is the Secretary of DHS. He is sued in his official capacity.

17. Kevin K. McAleenan is the Acting Commissioner of CBP. He is sued in his official capacity.

18. Stephen P. Caruso is a special agent in charge within CBP. He is sued in his official capacity.

19. Adam Hoffman is a special agent within the Office of Professional Responsibility of CBP. He is sued in his official capacity.

FACTUAL BACKGROUND

The Emergence And Popularity Of “Alternative Agency” Accounts On The Twitter Platform

20. President Donald J. Trump was inaugurated on January 20, 2017. That day the official Twitter account of the National Park Service retweeted an image comparing the crowd size at President Trump’s inauguration to the apparently larger crowd size at President Obama’s 2009 inauguration.

21. As the public began to remark on the agency’s retweet, the National Park Service abruptly shut down its own account and sent an internal email to agency employees explaining that “[a]ll bureaus and the department have been directed by [the] incoming administration to shut down Twitter platforms immediately until further notice.” And President Trump called the acting director of the National Park Service to complain about the agency retweeting an unflattering comparison of his inaugural crowd size. The day after the inauguration, the Park Service reactivated its official account and Tweeted an apology for “the mistaken [retweets] from our account yesterday.”¹

22. Four days after the inauguration, on January 24, 2017, the official Twitter account for Badlands National Park began to Tweet a series of statements about climate change from the @BadlandsNPS account.



¹ Lisa Rein, *Interior Department Reactivates Twitter Accounts After Shutdown Following Inauguration*, WASH. POST (Jan. 21, 2017), https://www.washingtonpost.com/news/powerpost/wp/2017/01/20/interior-department-banned-from-twitter-after-retweet-of-smaller-than-usual-trump-inauguration-crowd/?utm_term=.4e6d99996772.

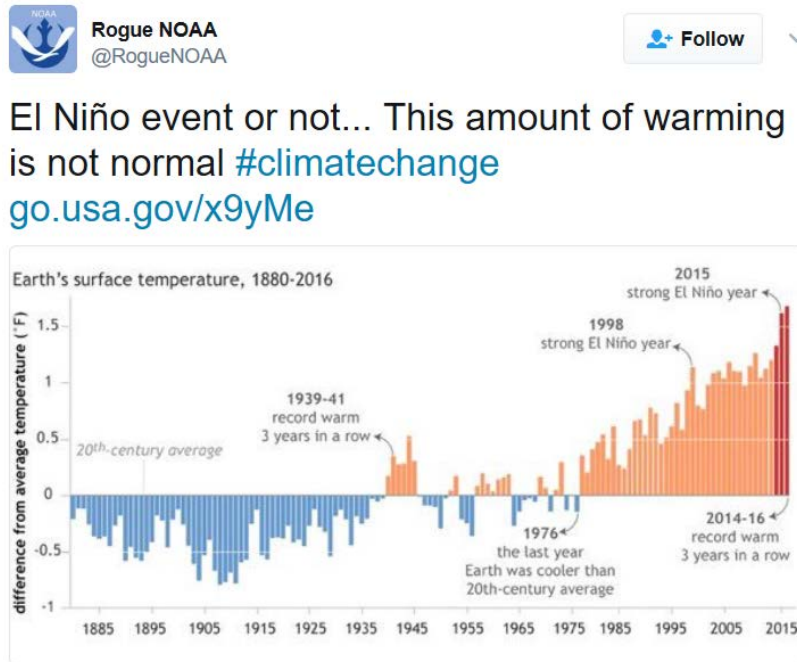
1 23. Press reports described the @BadlandsNPS account as having gone “rogue,” and
2 the National Park Service explained that a former employee who still had access to the
3 @BadlandsNPS account had been responsible for the Tweets. The Park Service quickly
4 removed the unauthorized Tweets and blocked the former employee’s access.

5 24. Shortly thereafter, a new wave of Twitter accounts began to appear on the
6 Twitter platform: self-identified as expressing “alternative” ideas, views, and information about
7 a particular federal agency. Although seemingly inspired by the National Park Service’s
8 inauguration day Tweet or by the short-lived takeover of the @BadlandsNPS account, these new
9 alternative agency accounts were not “official” accounts of any government agency. Instead,
10 they operated under names such as @blm_alt, @alt_labor, and @RogueEPastaff. Within
11 weeks, dozens of such accounts had been created, many attracting tens of thousands of followers
12 or more. In some cases, multiple alternative agency accounts appeared for a single agency.

13 25. While some of these alternative agency accounts appear to be run by former
14 federal employees or activists with no connection to the government, many of the accounts
15 claim, through their user-created account descriptions or the content of their Tweets, to be
16 administered by individuals who are currently employed by the federal agency after which the
17 account is named.

18 26. These self-designated alternative agency accounts have tended to challenge views
19 of the Administration and its policies, often (but not always) focusing on the policies of the
20 particular agency for which the account was named. The styles of expression emanating from
21 these accounts vary greatly.
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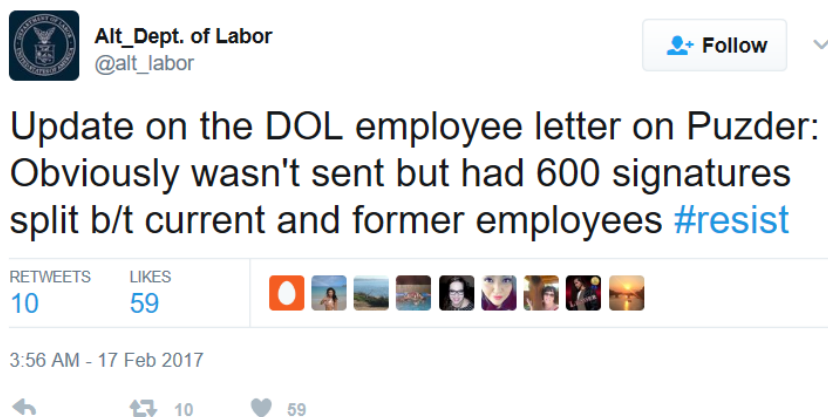
27. Some accounts appear to equate the simple act of broadcasting facts as an expression of dissent.



28. The accounts often have expressed disagreement with specific policies of the official agency.



29. One of the many Tweets from the @alt_labor account publicized a letter signed by 600 current and former Labor Department employees opposing the confirmation of the President's nominee for Labor Secretary, Andrew Puzder.



30. Like many online platforms, Twitter's platform offers users the choice between speaking in a self-identifying manner (for example, by selecting a user name that matches or is similar to the user's real name) or pseudonymously (through an account that has a user name and user description that do not disclose the speaker's real identity).

31. Pseudonymity of the speaker(s) is a defining feature of the alternative agency accounts that have recently emerged on the Twitter platform. While the persons who establish and use these accounts sometimes provide highly general descriptions of themselves (for example, by stating in the account's biography that the user or users work or previously worked for a particular agency), they typically refrain from revealing their real names. The users appear to view and depend on preservation of their anonymity as crucial to their ability to express information and ideas that are contrary to the policies and objectives of the Administration and its agencies. Preserving anonymity appears to be especially important for users of these alternative agency accounts who are current federal employees, given the risk that such users could face retaliation, sanctions, or other negative repercussions from their federal employer if they were identified as the source of criticism of their agency.²

² Alleen Brown, *Rogue Twitter Accounts Fight To Preserve The Voice Of Government Science*, THE INTERCEPT (Mar. 11, 2017), <https://theintercept.com/2017/03/11/rogue-twitter-accounts-fight-to-preserve-the-voice-of-government-science> (reporting that several "alternative agency" accounts are administered by current agency employees and that those employees wish to

The @ALT_USCIS Twitter Account

32. This case concerns one particular alternative agency account that, like many others, was created in late January 2017: @ALT_USCIS.

33. As of the time Twitter received the CBP Summons, the public, user-provided description of the @ALT_USCIS account described its user or users as “[o]fficial inside resistance.” As of then and now, the account description prominently declares that the account is “[n]ot [expressing] the views of DHS or USCIS.” The account’s profile image plays off USCIS’s official logo (displayed side-by-side below), further indicating a correspondence or relationship to the agency, albeit one that is unofficial, ideologically or politically averse, and/or “rogue.”³ Tweets from this account use hashtags such as “#altgov,” expressly self-identifying as part of the broader alternative agency movement.



34. On several occasions, Tweets from the @ALT_USCIS account have claimed that the person speaking through the account is a current federal employee of the United States Citizenship and Immigration Services (USCIS), an entity that reportedly has 19,000 employees and contractors. But beyond purporting to identify his or her employer, the person(s) using the account have chosen to remain pseudonymous.

35. In two months of existence, the @ALT_USCIS account has attracted over 32,000 followers and has issued thousands of Tweets.

preserve their anonymity “out of fear of workplace retaliation and pressure to shut down their accounts”).

³ The accountholder reworked the account’s description and profile image at some point after Twitter received the CBP Summons. The profile image displayed above is as it was when the summons was received.

36. The @ALT_USCIS account has expressed dissent in a range of different ways. One of the account's first Tweets asserted a fact about illegal immigration in the United States that the author apparently believed cast doubt on the Administration's immigration policy.

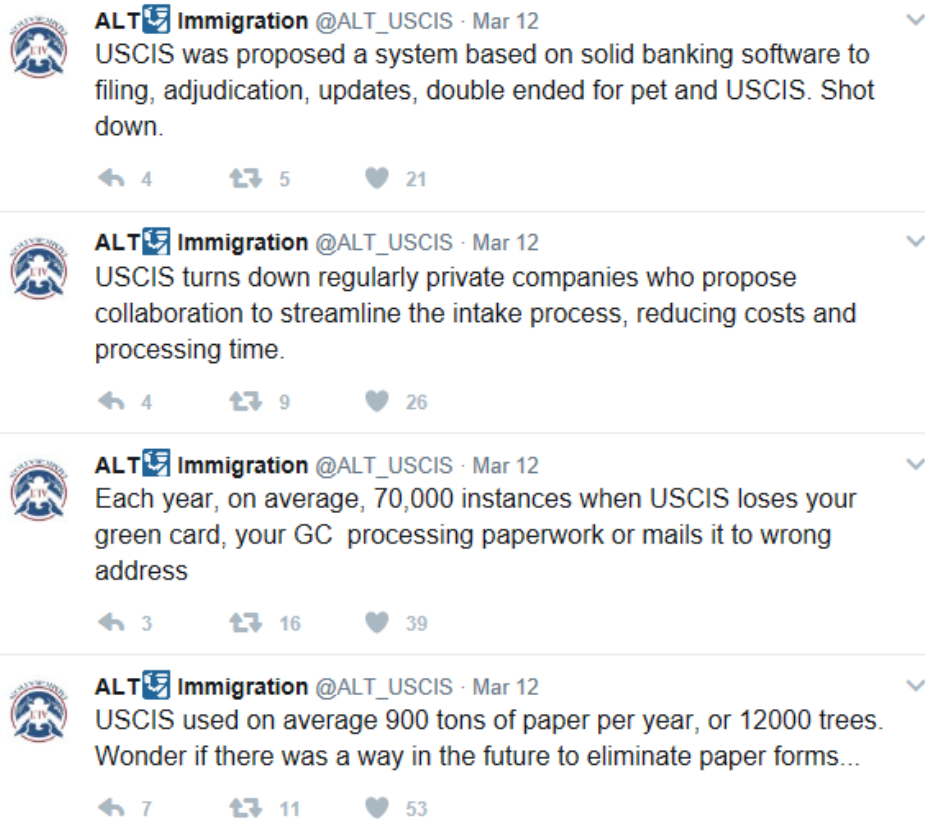


37. The @ALT_USCIS account has often criticized immigration policies with which the speaker apparently disagrees. The account was created on nearly the same day that the President issued his original immigration Executive Order. Tweets from the account have repeatedly criticized the Order—often referring to it as the “#MuslimBan.” Other Tweets have taken aim at the President's proposal to build a wall along the U.S.-Mexico border. For example, on March 11, 2017, the account used news that a fence-jumper had trespassed onto the White House grounds to argue that the Administration's proposed border fence will be ineffective.



38. Tweets from the @ALT_USCIS account have also purported to shine a light on historical and recent mismanagement at USCIS. For example, on March 12—two days before issuance of the CBP Summons challenged in this suit—a series of Tweets from the account

1 decried what the author described as waste, inefficiency, and poor management in the agency's
 2 attempts to set up a new automated system for processing immigration applications.



22 39. The account has regularly leveled criticism at U.S. Customs and Border
 23 Protection—the agency that issued the summons challenged by this lawsuit.



34 40. The account has also frequently tweeted disagreement with the current
 35 Administration's policies on subjects other than immigration—expressing opposition to efforts in

1 Congress to repeal the Affordable Care Act and urging Democrats to resist confirmation of
2 Supreme Court nominee Neil Gorsuch, among many other issues.

3 41. Occasionally, the account has highlighted USCIS or DHS policies that the speaker
4 appears to support. For example, the day DHS Secretary Kelly announced that the Department
5 would continue to exempt from removal individuals covered by the prior Administration's
6 Deferred Action for Childhood Arrivals policy (DACA), the account issued the following Tweet.



14
15 U.S. Customs And Border Protection Orders Twitter To Produce
Records That Would Strip The @ALT_USCIS Account Of Anonymity

16 42. On March 14, 2017, Defendant Adam Hoffman, an agent within U.S. Customs
17 and Border Protection, transmitted to Twitter by fax a summons, ordering Twitter to produce
18 certain records pertaining to the @ALT_USCIS account. The CBP Summons invoked as
19 authority 19 U.S.C. § 1509. It was signed by Defendant Stephen P. Caruso, a CBP Special
20 Agent in Charge based in Miramar, Florida. A true and accurate copy of the CBP Summons, in
21 the form it was received by Twitter, is attached as Exhibit A.

22 43. The CBP Summons states that Twitter is “required” to “produce[] for inspection”
23 “[a]ll records regarding the [T]witter account @ALT_USCIS to include, User names, account
24 login, phone numbers, mailing addresses, and I.P. addresses.” The purpose of this request
25 appears to be, and the effect of Twitter’s complying with it likely would be, to enable or help to
26 enable Defendants to pierce the anonymity of the person or persons who established and use the
27 @ALT_USCIS account.
28

1 44. The CBP Summons warned Twitter that “[f]ailure to comply with this summons
2 will render you liable to proceedings in a U.S. District Court to enforce compliance with this
3 summons as well as other sanctions.”

4 45. The CBP Summons ordered Twitter to produce the records to a CBP office in
5 Washington D.C. by 11:45 A.M. on March 13, 2017—the day *before* the CBP Summons was
6 faxed to Twitter.

7 46. The CBP Summons states generically that “production of the indicated records is
8 required in connection with an investigation or inquiry to ascertain the correctness of entries, to
9 determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure
10 compliance with the laws or regulations administered by CBP and ICE.” Beyond that boilerplate
11 language, the CBP Summons provides no justification for issuance of a summons targeting the
12 @ALT_USCIS account.

13 47. The CBP Summons further “requested”—but did not order or otherwise compel—
14 Twitter “not to disclose the existence of this summons for an indefinite period of time.”

15 48. Notwithstanding the request on the face of the CBP Summons that Twitter not
16 disclose the existence of the CBP Summons to anyone, a “Summons Notice” included in the
17 CBP Summons describes a procedure whereby the subject of the summons (i.e., the person
18 whose “business transactions or affairs” are purportedly being investigated) supposedly could
19 “object to the examination” of the requested records by “advis[ing] the person summoned [i.e.
20 Twitter], in writing, not to comply with the summons” and “send[ing] a copy of that notice by
21 registered or certified mail to the CBP Officer ... who issued the summons.” To be effective,
22 any such objection would have to be sent “not later than the” deadline set by the CBP Summons
23 for compliance—which, again, had already passed by the time the CBP Summons was served on
24 Twitter. Neither the CBP Summons itself, nor the statute that supposedly authorizes issuance of
25 the summons (*i.e.*, 19 U.S.C. § 1509), nor the regulations implementing that statute describe any
26 procedure for Twitter to object to compliance with the summons.

27 49. On March 28, 2017, counsel for Twitter contacted Defendant Hoffman to raise
28 concerns regarding the request not to provide notice to the user and the legal basis for seeking

1 information about the identified account using a summons issued under 19 U.S.C. § 1509.
2 Defendant Hoffman advised counsel for Twitter that CBP did not want the user notified and that
3 he would discuss notice with his supervisors. With regard to the legal basis for the summons,
4 Defendant Hoffman stated vaguely that he is conducting an investigation. But he did not identify
5 any law or laws that he believed had been broken or point to any evidence substantiating any
6 such belief—such as particular Tweets that he believes were unlawful. Defendant Hoffman took
7 the position that the summons was an appropriate investigative tool, but he did not provide any
8 specifics as to how a summons issued under 19 U.S.C. § 1509 could be an appropriate means for
9 CBP’s Office of Professional Responsibility to be conducting this particular investigation. In
10 fact, to the limited extent he did explain the nature of the investigation, it seemed to confirm that
11 the investigation had nothing to do with obtaining records to assess whether appropriate duties
12 and taxes had been paid on imported merchandise.

13 50. Twitter advised Defendant Hoffman that, unless he or his agency obtained a court
14 order under the federal Stored Communications Act, 18 U.S.C. § 2705, directing Twitter not to
15 disclose the CBP Summons to the @ALT_USCIS accountholder(s), Twitter would, in
16 accordance with its standard practices, notify the accountholder(s) of the existence and content of
17 the CBP Summons. On March 31, 2017, Defendant Hoffman sent Twitter an email confirming
18 that no such court order would be obtained. On April 2, 2017, Twitter stated in a response to
19 Defendant Hoffman that it intended to notify the accountholder(s) the next day about the CBP
20 Summons.

21 51. On April 4, 2017, Twitter notified the @ALT_USCIS accountholder(s) about the
22 existence and contents of the CBP Summons. At approximately the same time, Twitter also
23 informed Defendant Hoffman of its intention to challenge the CBP Summons in court if it was
24 not withdrawn within 48 hours. Later that day, counsel for Twitter sent Defendant Hoffman an
25 email elaborating the bases for Twitter’s legal objections to the CBP Summons—namely that the
26 summons falls outside the statutory parameters of 19 U.S.C. § 1509 and infringes on the First
27 Amendment rights of Twitter’s users and Twitter itself—and reiterating Twitter’s intention to
28 sue absent withdrawal of the summons.

52. As of today's date, Defendants have not notified Twitter of any intent to withdraw the CBP Summons.

COUNT I
(19 U.S.C. § 1509; Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202;
APA, 5 U.S.C. § 706)

THE SUMMONS EXCEEDS THE SCOPE
OF CBP'S AUTHORITY UNDER 19 U.S.C. § 1509

53. Plaintiff hereby incorporates by reference paragraphs 1-52 as if set forth fully herein.

54. The summons is unlawful because it demands production of records that CBP is not authorized to obtain under 19 U.S.C. § 1509.

55. The summons exceeds the scope of CBP's authority under 19 U.S.C. § 1509 for two reasons. *First*, 19 U.S.C. § 1509 authorizes CBP to obtain documents only for investigations and inquiries relating to the importation of merchandise. *Second*, even if CBP issued the summons for a proper purpose, the summons seeks production of records that are not of the narrowly limited type that CBP is authorized to obtain under 19 U.S.C. § 1509. These two reasons are explained more fully below.

56. *First*, 19 U.S.C. § 1509 confers authority on the Secretary (or a delegate at or above the rank of district director or special agent in charge) to compel disclosure of records only in connection with "any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty, fees and taxes due or duties, fees and taxes which may be due the United States, for determining liability for fines and penalties, or for insuring compliance with the laws of the United States administered by the United States Customs Service." 19 U.S.C. § 1509(a). The first three items on the list clearly relate narrowly to imports, and the meaning of the fourth term is "cabin[ed]" by the first three. *See Yates v. United States*, 135 S. Ct. 1074, 1085 (2015) (applying "the principle of *noscitur a sociis*—a word is known by the company it keeps—to 'avoid ascribing to one word a meaning so broad that it is inconsistent with its accompanying words, thus giving unintended breadth to the Acts of Congress.'" (quoting *Gustafson v. Alloyd Co.*, 513 U.S. 561, 575 (1995))).

57. Defendants could not plausibly establish that they issued the CBP Summons—which demands “[a]ll records regarding the [T]witter account @ALT_USCIS to include User names, account login, phone numbers, mailing addresses, and I.P. addresses”—in any investigation or inquiry relating to the import of merchandise.

58. *Second*, § 1509 does not authorize the Defendants to compel production of the account-related records that the summons demands. The Secretary or his delegate can compel the production of only records that fall within a narrow category defined in 15 U.S.C. § 1509(d)(1)(A). *See* 15 U.S.C. § 1509(a)(2)(D) (“[T]he Secretary ... may ... summon ... any ... person he may deem proper ... to produce records, *as defined in subsection (d)(1)(A).*”).

59. Subsection 1509(d)(1)(A) limits the “records” whose production may be permissibly compelled through a summons to those (1) that are “required to be kept under section 1508 of this title” and (2) “regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited.” The records that the CBP Summons demands Twitter to disclose meet neither of these criteria.

60. Section 1508 requires importers to maintain certain records relating to their activity of importing merchandise. *See United States v. Frowein*, 727 F.2d 227, 233 (2d Cir. 1984) (“Section 1508 ... imposes recordkeeping requirements on those who import or cause goods to be imported.”). Specifically, the entities that must maintain records under section 1508 are limited to the following: any “owner, importer, consignee, importer of record, entry filer, or other party who—(A) imports merchandise into the customs territory of the United States, files a drawback claim, or transports or stores merchandise carried or held under bond, or (B) knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States,” 19 U.S.C. § 1508(a)(1); *or* any “agent of any party described in paragraph (1),” *id.* § 1508(a)(2); *or* any “person whose activities require the filing of a declaration of entry, or both,” *id.* § 1508(a)(3). The records Section 1508 requires these entities to maintain are limited to records that both “pertain to any such activity, or to the information contained in the records required by this chapter in

1 connection with any such activity” and “are normally kept in the ordinary course of business.” 19
 2 U.S.C. § 1508(a)(3).

3 61. Subsection 1509(d)(1)(A)(ii) likewise limits the scope of records whose
 4 production CBP may compel pursuant to a summons to records relating to the importation of
 5 merchandise—specifically, records “pertain[ing] to *merchandise the importation of which into*
 6 *the United States is prohibited.*”

7 62. The CBP Summons plainly does not request records relating to the importation of
 8 merchandise. It requests that Twitter produce information that pertains to the identity of the
 9 person(s) who established and use the @ALT_USCIS account. And it is utterly implausible that
 10 Defendants’ interest in the person(s) who established and use the @ALT_USCIS account stems
 11 from their importation of merchandise into the United States.

12 63. The CBP Summons also violates the Stored Communications Act (“SCA”),
 13 18 U.S.C. § 2701 *et seq.*, which “protects individuals’ privacy and proprietary interests,”
 14 “reflect[ing] Congress’s judgment that users have a legitimate interest in the confidentiality of
 15 communications in electronic storage at a communications facility.” *Theofel v. Farey-Jones*, 359
 16 F.3d 1066, 1072 (9th Cir. 2003). The SCA establishes legal processes that government agencies
 17 must follow in order to obtain certain types of information from a service provider such as
 18 Twitter, which have not been followed here. The basic subscriber information the CBP
 19 Summons seeks—such as the user’s name and address—can be obtained “us[ing] an
 20 administrative subpoena authorized by a Federal or State statute.” 18 U.S.C. § 2703(c)(2). But
 21 the CBP Summons is not a valid administrative subpoena because, among other defects, it
 22 exceeds the scope of CBP’s authority under 19 U.S.C. § 1509.

23 64. For the foregoing reasons, the Court should enjoin Defendants from taking any
 24 further action to enforce the CBP Summons and declare it to be an unlawful exercise of
 25 Defendants’ authority, in contravention of 15 U.S.C. § 1509 and the SCA. Such relief is
 26 warranted under, among other laws, the APA because issuance, service, and enforcement of the
 27 subpoena is “not in accordance with law” and “in excess of statutory jurisdiction, authority, or
 28 limitations.” 5 U.S.C. § 706(2)(A), (C).

COUNT II

(U.S. Const. amend. I; Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202;
APA, 5 U.S.C. § 706)

**THE FIRST AMENDMENT BARS THE CBP SUMMONS ABSENT SATISFACTION
OF THE STRINGENT STANDARD FOR UNMASKING ANONYMOUS SPEAKERS**

65. Plaintiff herein incorporates by reference paragraphs 1-64 as if set forth fully herein.

66. Twitter provides a platform for speech for hundreds of millions of users. Its users Tweet about a broad range of topics, from a favorite sports team to the birth of a child to the latest executive order. Many of Twitter’s users choose to express themselves on the platform pseudonymously.

67. The CBP Summons seeks to force Twitter to disclose information that would identify, or likely lead to the identification of, a person (or group of persons) who has chosen to criticize the government pseudonymously and whose speech is potentially valuable since the person—as a self-described public employee—may be in the best position to “know what ails the agenc[y] for which [he or she] work[s].” *Dahlia v. Rodriguez*, 735 F.3d 1060, 1066-1067 (9th Cir. 2013) (quoting *Waters v. Churchill*, 511 U.S. 661, 674 (1994)).

68. Compelled disclosure of the identities of Twitter users who have engaged in pseudonymous speech would chill their exercise of the constitutionally protected right to speak anonymously. Moreover, independent of its users’ rights, Twitter’s actions in providing a platform for the dissemination of its users’ speech—including its decision to permit the publication of pseudonymous speech—is fully protected by the First Amendment. *See, e.g., Marcus v. Search Warrants*, 367 U.S. 717, 731-732 (1961); *cf., e.g., Arkansas Educ. Television Comm’n v. Forbes*, 523 U.S. 666, 674 (1998). When rights of free speech—especially anonymous free speech—are at stake, courts generally permit an organization or business to assert those rights on behalf of its members or customers. *See, e.g., Virginia v. American Booksellers Ass’n, Inc.*, 484 U.S. 383, 392-393 (1988) (permitting booksellers to assert First Amendment rights of buyers of adult-oriented books); *Publius v. Boyer-Vine*, 2017 WL 772146,

at *5 n.5 (E.D. Cal. Feb. 27, 2017) (collecting cases holding that entities such as websites can assert the First Amendment rights of their anonymous users).

69. The decision to speak anonymously or pseudonymously is protected by the First Amendment. As the Supreme Court has explained, “an author’s decision to remain anonymous, like other decisions concerning omissions or additions to the content of a publication, is an aspect of the freedom of speech protected by the First Amendment.” *McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 342 (1995). “Anonymity is a shield from the tyranny of the majority. It thus exemplifies the purpose behind the Bill of Rights, and of the First Amendment in particular: to protect unpopular individuals from retaliation—and their ideas from suppression—at the hand of an intolerant society.” *Id.* at 357.

70. A time-honored tradition of pseudonymous free speech on matters of public moment runs deep in the political life of America. “Undoubtedly the most famous pieces of American political advocacy are *The Federalist Papers*, penned by James Madison, Alexander Hamilton, and John Jay, but published under the pseudonym ‘Publius.’” *In re Anonymous Online Speakers*, 661 F.3d 1168, 1172-73 (9th Cir. 2011) (citing *McIntyre*, 514 U.S. at 344 n.6).

71. The decision to maintain anonymity “may be motivated by fear of economic or official retaliation, by concern about social ostracism, or merely by a desire to preserve as much of one’s privacy as possible.” *Watchtower Bible and Tract Soc’y of New York, Inc. v. Village of Stratton*, 122 S. Ct. 2080, 2089-90 (2002) (internal citation omitted). In the present case, there is reason for concern that the CBP Summons itself may reflect the very sort of official retaliation that can result from speech that criticizes government officials and agencies. Because of the potential for retaliation and ostracism, “[t]here can be no doubt that [requiring identification of pseudonymous authors] would tend to restrict freedom to distribute information and thereby freedom of expression.” *Talley v. California*, 362 U.S. 60, 64-65 (1960); *see also* (*WIN*) *Washington Initiatives Now v. Rippie*, 213 F.3d 1132, 1139 (9th Cir. 2000) (“Depriving individuals of ... anonymity is ... ‘a broad intrusion, discouraging truthful, accurate speech by those unwilling to [disclose their identities] and applying regardless of the character or strength of an individual’s interest in anonymity.’”) (quoting *American Constitutional Law Found., Inc. v.*

1 *Meyer*, 120 F.3d 1092, 1103 (10th Cir. 1997)); *see also Am. Civil Liberties Union of Nevada v.*
 2 *Heller*, 378 F.3d 979, 988 (9th Cir. 2004).

3 72. These First Amendment interests are at their zenith when, as here, the speech at
 4 issue touches on matters of public political life. Political expression “occupies the core of the
 5 protection afforded by the First Amendment” and must be afforded the highest level of First
 6 Amendment protection. *McIntyre*, 514 U.S. at 346; *see also Mills v. Alabama*, 384 U.S. 214,
 7 218 (1966) (“[T]here is practically universal agreement that a major purpose of that Amendment
 8 was to protect the free discussion of governmental affairs.”); *New York Times Co. v. Sullivan*,
 9 376 U.S. 254, 270 (1964) (a case should be considered “against the background of a profound
 10 national commitment to the principle that debate on public issues should be uninhibited, robust,
 11 and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly
 12 sharp attacks on government and public officials.”).

13 73. These protections for anonymous and pseudonymous political speech are as
 14 robust on the Internet as any other mode of speech. The Supreme Court has unequivocally held
 15 that speech on the Internet is entitled to the highest form of First Amendment protection. *See*
 16 *Reno v. ACLU*, 521 U.S. 844, 870 (1997). As the Supreme Court aptly recognized, through the
 17 Internet and interactive services such as Twitter, “any person with a phone line can become a
 18 town crier with a voice that resonates farther than it could from any soapbox. Through the use of
 19 Web pages, mail exploders, and newsgroups, the same individual can become a pamphleteer.”
 20 *Id.*; *see also In re Anonymous Online Speakers*, 661 F.3d at 1173 (“Although the Internet is the
 21 latest platform for anonymous speech, online speech stands on the same footing as other
 22 speech.”). “As with other forms of expression, the ability to speak anonymously on the Internet
 23 promotes the robust exchange of ideas and allows individuals to express themselves freely
 24 without ‘fear of economic or official retaliation ... [or] concern about social ostracism.’” *In re*
 25 *Anonymous Online Speakers*, 661 F.3d at 1173 (quoting *McIntyre*, 514 U.S. at 341-342).

26 74. Compelling Twitter to disclose information that would identify or lead to the
 27 identification of the person(s) who established and use the @ALT_USCIS account would chill
 28 the expression of particularly valuable political speech—namely speech by current or former

public employees, or others with special insight into operations of our government. The Constitution does not permit a government agency to suppress dissent voiced by current or former employees in their private capacity—especially when such efforts exceed the agency’s statutory authority. “[C]itizens do not surrender their First Amendment rights by accepting public employment.” *Lane v. Franks*, 134 S. Ct. 2369, 2374 (2014). Indeed, “[t]here is a significant First Amendment interest in encouraging public employees, who have special access to facts relevant to debates on issues of public concern, to speak freely and make that information available.” *Johnson v. Multnomah Cty., Or.*, 48 F.3d 420, 424 (9th Cir. 1995). “[S]peech by public employees on subject matter related to their employment holds special value precisely because those employees gain knowledge of matters of public concern through their employment.” *Franks*, 134 S. Ct. at 2378-2381. “It may often be the case that, unless public employees are willing to blow the whistle, government corruption and abuse would persist undetected and undeterred.” *Dahlia*, 735 F.3d at 1066-1067. “The interest at stake is as much the public’s interest in receiving informed opinion as it is the employee’s own right to disseminate it.” *San Diego v. Roe*, 543 U.S. 77, 82 (2004).

75. In light of the compelling First Amendment interests at stake, Defendants must satisfy “stringent standards” before using a subpoena or other compulsory legal process to attempt to unmask the identity of the person(s) who established and use the @ALT_USCIS account. *Mason Awtry v. Glassdoor, Inc.*, 2016 WL 1275566, at *1 (N.D. Cal. Apr. 1, 2016); see *In re Anonymous Online Speakers*, 661 F.3d at 1778 (“[T]he nature of the speech should be a driving force in choosing a standard by which to balance the rights of anonymous speakers” against the interests of those seeking disclosure, with political speech warranting “imposition of a heightened standard”). In particular, Defendants must demonstrate that (1) “there is a real evidentiary basis for believing” that some criminal or civil offense has been committed, *Highfields Capital Mgmt., L.P. v. Doe*, 385 F. Supp. 2d 969, 975-976 (N.D. Cal. 2005); (2) revealing the identity of the speaker(s) is “necessary”—that is, that it is the least restrictive means for investigating that offense, *Glassdoor, Inc.*, 2016 WL 1275566, at *16; *Art of Living Foundation v. Does 1-10*, 2011 WL 5444622, *10 (N.D. Cal. Nov. 9, 2011); (3) Defendants’

1 demand for this information is not motivated by a desire to suppress free speech; and (4) the
 2 interests of pursuing that investigation outweigh the important First Amendment rights of Twitter
 3 and its users, *Highfields*, 385 F. Supp. 2d at 975-976. *See also Doe No. 1 v. Cahill*, 884 A.2d
 4 451 (Del. 2005) (preventing disclosure of identity of anonymous online speaker); *Dendrite*
 5 *Intern., Inc. v. Doe No. 3*, 775 A.2d 756 (N.J. Super. 2001) (same). The heightened showing
 6 required for such compulsory legal process is not only supported by substantial judicial
 7 precedent, but also is consistent with the special procedures erected in other contexts to protect
 8 First Amendment rights. *E.g., Makaeff v. Trump Univ., LLC*, 736 F.3d 1180, 1182-1183 (9th
 9 Cir. 2013) (California’s anti-SLAPP statute “establish[es] a summary-judgment-like procedure
 10 available at an early stage of [a] litigation that poses a potential chilling effect on speech-related
 11 activities” (internal quotation omitted)); 28 C.F.R. § 50.10(c)(1) (requiring subordinates in the
 12 Department of Justice to obtain the authorization of the Attorney General to issue a subpoena to
 13 a member of the news media, or to use a subpoena to obtain from a third party communications
 14 records or business records of a member of the news media).

15 76. Defendants have satisfied none of these requirements. To meet the first
 16 requirement, Defendants must “adduce *competent evidence*” that “address[es] *all* of the
 17 inferences of fact that [Defendants] would need to prove in order to [substantiate] at least one of
 18 the” offenses that Defendants believe has been committed. *Highfields Capital Mgmt., L.P.*, 385
 19 F. Supp. at 975. Defendants have fallen far short of this standard, given that they have neither
 20 specified any offense they are purportedly investigating nor presented *any* evidence in support of
 21 any element of any such offense.

22 77. Defendants have likewise failed to demonstrate that unmasking the identity of the
 23 @ALT_USCIS accountholder(s) is the least restrictive way to investigate any offense or offenses
 24 that they believe were committed. To establish that the CBP Summons is “necessary,”
 25 Defendants must explain why other investigatory tools they have deployed have fallen short,
 26 leaving Defendants with no choice but to pierce @ALT_USCIS’s pseudonymity. *E.g.*,
 27 *Glassdoor, Inc.*, 2016 WL 1275566, at *16; *Art of Living Foundation*, 2011 WL 5444622, at *10.
 28 Defendants have not come close to making that showing.

78. Defendants’ failure to establish that some offense within the law enforcement purview of CBP was actually committed and that the CBP Summons is necessary to investigate that offense likewise confirms that Defendants have failed to demonstrate that the summons is not motivated by a desire to suppress free speech, or that Defendants’ need to unmask the identity of the @ALT_USCIS accountholder(s) outweighs the harm that doing so would cause to the First Amendment rights of Twitter and its users.

79. For the foregoing reasons, the Court should enjoin Defendants from taking any further action to enforce the CBP Summons and—absent the requisite showing—declare it to be a violation of the rights of Twitter and its users under the First Amendment. Such relief is warranted under, among other laws, the APA, because issuance, service, and enforcement of the CBP Summons is “contrary to constitutional right.” 5 U.S.C. § 706(2)(B).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

a. Declare that the CBP Summons is unlawful and unenforceable because Defendants issued it for reasons not authorized by 19 U.S.C. § 1509 and because it demands production of documents that Defendants are not authorized to demand or obtain under 19 U.S.C. § 1509, and further declare that the CBP Summons violates the Administrative Procedure Act as not in accordance with law, 5 U.S.C. § 706(2)(A), and “in excess of statutory jurisdiction, authority, or limitations,” *id.* § 706(2)(C).

b. Declare that the CBP Summons is unlawful and unenforceable because it violates the First Amendment rights of both Twitter and its users by seeking to unmask the identity of one or more anonymous Twitter users voicing criticism of the government on matters of public concern without Defendants having satisfied the stringent standards for piercing a speaker’s anonymity, and further declare that the CBP Summons violates the Administrative Procedure Act as “contrary to constitutional right,” 5 U.S.C. § 706(2)(B);

c. Issue an order vacating and nullifying the CBP Summons, enjoining Defendants or their agents from enforcing the CBP Summons, and declaring that Twitter has no obligation to comply with the CBP Summons;

- 1 d. Award Plaintiff its costs and reasonable attorney's fees as appropriate; and
2 e. Grant such other relief as this Court may deem just and proper.

3
4 Dated: April 6, 2017

Respectfully submitted,

5 /s/ Mark D. Flanagan

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26
27 *Counsel for Plaintiff Twitter, Inc.*
28

Exhibit A



U.S. DEPARTMENT OF HOMELAND SECURITY
Bureau of Customs and Border Protection

FACSIMILE TRANSMITTAL

CD 2110-035

Date:

Control Number:

TO	Name:	<i>Trust & Safety - Legal Policy</i>
	Organization:	<i>Twitter Inc</i>
	Fax Number:	[REDACTED]
	Number of Pages (including cover):	<i>4</i>
FROM	Sender:	<i>SA</i> (b) (6), (b) (7)(C) [REDACTED]
	Originating Location:	<i>DHS Customs and Border Protection</i>
	Return FAX Number:	(b) (6), (b) (7)(C) [REDACTED]
	Voice Number:	[REDACTED]
REMARKS	<i>Please complete the Acknowledgment of Receipt and return to Fax # (b) (6), (b) (7)(C) [REDACTED]</i>	

Important: This document may contain confidential and sensitive U.S. Government information. Please deliver it immediately only to the intended recipient(s) listed above. The Bureau of Customs and Border Protection has not approved the documents review, retransmission, dissemination or use by anyone other than the intended recipient(s).

To (Name, Address, City, State, Zip Code) Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	DEPARTMENT OF HOMELAND SECURITY SUMMONS NOTICE to Appear and/or Produce Records 19 U.S.C. § 1509
<p>Attached is a copy of a summons served by U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP), both agencies within the Department of Homeland Security (DHS), to examine records or to request testimony relating to records of your business transactions or affairs which have been made or kept by the person named in Block 1 of the summons.</p> <p>If you object to the examination of these records, you may stay (prevent) examination of the records until a summons enforcement proceeding is commenced in court. Compliance with the summons will be stayed if, not later than the day before the date indicated in Block 2 of the summons, you advise the person summoned (the person named in Block 1), in writing, not to comply with the summons, and you send a copy of that notice by registered or certified mail to the CBP Officer or ICE Special Agent who issued the summons at the address shown in Block 6 of the summons.</p> <p>CBP or ICE may begin an action to enforce the summons in the appropriate United States District Court. In such cases, you will be notified and you will have the right to intervene and present your objections before the court. The court will decide whether the person summoned should be required to comply with the summons.</p> <p>If the court issues an order to comply with the summons and the person summoned fails to comply, the court may punish such failure as a contempt of court. Other sanctions may be provided by law.</p> <p>If you have any questions regarding this matter, please contact the CBP Officer or ICE Special Agent before whom the summoned person is required to appear. The CBP Officer's or ICE Special Agent's name and telephone number are given in Block 2 of the summons.</p>	

1. To (Name, Address, City, State, Zip Code) Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	DEPARTMENT OF HOMELAND SECURITY SUMMONS to Appear and/or Produce Records 19 U.S.C. § 1509
Summons Number (b) (7)(E)	Case Number: (b) (7)(E)

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

- (A) ☐ **APPEAR** before the U.S. Customs and Border Protection (CBP) Officer or U.S. Immigration and Customs Enforcement (ICE) Special Agent named in Block 2 at the place, date, and time indicated to testify and give information.
- (B) ☒ **PRODUCE** the records (including statements, declarations, and other documents) indicated in Block 3 before the CBP Officer or ICE Special Agent named in Block 2 at the place, date, and time indicated.


Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry to ascertain the correctness of entries, to determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure compliance with the laws or regulations administered by CBP and ICE.

Failure to comply with this summons will render you liable to proceedings in a U.S. District Court to enforce compliance with this summons as well as other sanctions.

2. (A) CBP Officer or ICE Special Agent before whom you are required to appear Name (b) (6), (b) (7)(C) Title Special Agent Address 1300 Pennsylvania Ave. N.W. Room 8.3 Washington D.C. 20229 Telephone Number (b) (6), (b) (7)(C)	(B) Date 03/13/2017 (C) Time 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
3. Records required to be produced for inspection All records regarding the twitter account @ALT_USCIS to include, User names, account login, phone numbers, mailing addresses, and I.P addresses.	

You are requested not to disclose the existence of this summons for an indefinite period of time. Any such disclosure will impede this investigation and thereby interfere with the enforcement of federal law.

Issued under authority of section 509, Tariff Act of 1930, as amended by Public law 95-410 (19 U.S.C. § 1509); 44 F.R. 2217; Homeland Security Act of 2002

4. Name of person authorized to serve this summons or any other CBP Officer or ICE Special Agent Special Agent (b) (6), (b) (7)(C)	5. Date of issue 03/14/2017 (b) (6), (b) (7)(C)
 <div data-bbox="183 1846 761 1933" style="border: 1px solid black; padding: 5px; margin-top: 10px;"> If you have any questions regarding this summons, contact the CBP Officer or ICE Special Agent identified in Block 2. </div>	6. Name, title, address, and telephone number of person issuing this summons Name (b) (6), (b) (7)(C) Title Special Agent in Charge Address 11606 City Hall Promenade Suite 400, Miramar, FL 33025 Telephone Number (b) (6), (b) (7)(C)

CERTIFICATE OF SERVICE AND ACKNOWLEDGMENT OF RECEIPT

A. CERTIFICATE OF SERVICE OF SUMMONS		
I certify that I served the summons on the front of this form as follows:		
<input type="checkbox"/> I delivered a copy of the summons to the person to whom it was directed, as follows:	Address or Location	Date
		Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
<input checked="" type="checkbox"/> (For corporations, partnerships, and unincorporated associations which may be sued under a common name) I delivered a copy of the summons to an officer, managing or general agent, or agent authorized to accept service of process as follows:	Address or Location Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	Date 03/13/2017
		Time 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Name of person to whom the summons was delivered		
Faxing to [REDACTED] (attn: Trust & Safety - Legal Policy)		
S. (b) (6), (b) (7)(C) [REDACTED]		
T. [REDACTED] Special Agent		Date 03/13/2017

B. ACKNOWLEDGMENT OF RECEIPT		
I acknowledge receipt of a copy of the summons on the front of this form.		
Signature		
Title	Date	Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS	DEFENDANTS
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)
(c) Attorneys (Firm Name, Address, and Telephone Number)	NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																												
<table><tr><td>1 U.S. Government Plaintiff</td><td>3 Federal Question (U.S. Government Not a Party)</td></tr><tr><td>2 U.S. Government Defendant</td><td>4 Diversity (Indicate Citizenship of Parties in Item III)</td></tr></table>	1 U.S. Government Plaintiff	3 Federal Question (U.S. Government Not a Party)	2 U.S. Government Defendant	4 Diversity (Indicate Citizenship of Parties in Item III)	<table><tr><td></td><td>PTF</td><td>DEF</td><td></td><td>PTF</td><td>DEF</td></tr><tr><td>Citizen of This State</td><td>1</td><td>1 Incorporated or Principal Place of Business In This State</td><td>4</td><td>4</td><td></td></tr><tr><td>Citizen of Another State</td><td>2</td><td>2 Incorporated and Principal Place of Business In Another State</td><td>5</td><td>5</td><td></td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td>3</td><td>3 Foreign Nation</td><td>6</td><td>6</td><td></td></tr></table>		PTF	DEF		PTF	DEF	Citizen of This State	1	1 Incorporated or Principal Place of Business In This State	4	4		Citizen of Another State	2	2 Incorporated and Principal Place of Business In Another State	5	5		Citizen or Subject of a Foreign Country	3	3 Foreign Nation	6	6	
1 U.S. Government Plaintiff	3 Federal Question (U.S. Government Not a Party)																												
2 U.S. Government Defendant	4 Diversity (Indicate Citizenship of Parties in Item III)																												
	PTF	DEF		PTF	DEF																								
Citizen of This State	1	1 Incorporated or Principal Place of Business In This State	4	4																									
Citizen of Another State	2	2 Incorporated and Principal Place of Business In Another State	5	5																									
Citizen or Subject of a Foreign Country	3	3 Foreign Nation	6	6																									

IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment Of Veteran's Benefits 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excludes Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury - Medical Malpractice	PERSONAL INJURY 365 Personal Injury - Product Liability 367 Health Care/Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability	625 Drug Related Seizure of Property 21 USC § 881 690 Other LABOR 710 Fair Labor Standards Act 720 Labor/Management Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Employee Retirement Income Security Act IMMIGRATION 462 Naturalization Application 465 Other Immigration Actions	422 Appeal 28 USC § 158 423 Withdrawal 28 USC § 157 PROPERTY RIGHTS 820 Copyrights 830 Patent 840 Trademark SOCIAL SECURITY 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g)) FEDERAL TAX SUITS 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS-Third Party 26 USC § 7609	375 False Claims Act 376 Qui Tam (31 USC § 3729(a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 850 Securities/Commodities/Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes
REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	CIVIL RIGHTS 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/Accommodations 445 Amer. w/Disabilities-Employment 446 Amer. w/Disabilities-Other 448 Education	PRISONER PETITIONS Habeas Corpus: 463 Alien Detainee 510 Motions to Vacate Sentence 530 General 535 Death Penalty Other: 540 Mandamus & Other 550 Civil Rights 555 Prison Condition 560 Civil Detainee-Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)	1 Original Proceeding	2 Removed from State Court	3 Remanded from Appellate Court	4 Reinstated or Reopened	5 Transferred from Another District (specify)	6 Multidistrict Litigation-Transfer	8 Multidistrict Litigation-Direct File
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VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
	Brief description of cause:

VII. REQUESTED IN COMPLAINT:	CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: Yes No
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VIII. RELATED CASE(S), IF ANY (See instructions):	JUDGE	DOCKET NUMBER
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IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2) (Place an "X" in One Box Only)	SAN FRANCISCO/OAKLAND	SAN JOSE	EUREKA-MCKINLEYVILLE
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DATE:	SIGNATURE OF ATTORNEY OF RECORD:
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CIVIL COVER SHEET

Attachment

Part I (c) Attorneys for Plaintiffs (Firm Name, Address, and Telephone Number)

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Subject: TRUMP TRUMP TRUMP TRUMP

Date:

From:

To:

TRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP
TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMP!!
MAGA

[REDACTED]

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date: [REDACTED]

From: [REDACTED]

To: [REDACTED]

MAGA mother fucker. Here we come. we gonna be great again!

[REDACTED]

TRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP
TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMP!!
MAGA

[REDACTED]

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date: [REDACTED]

From: [REDACTED]

To: [REDACTED]

15000 more redneck bruh hunger games about to start

[REDACTED]

MAGA mother fucker. Here we come. we gonna be great again!

On [REDACTED]

TRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP
TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMP!!
MAGA

[REDACTED]

[REDACTED]

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date: [REDACTED]

From: [REDACTED]

To: [REDACTED]

this is me January 21st looking for carlos

[REDACTED]

15000 more redneck bruh hunger games about to start

[REDACTED]

MAGA mother fucker. Here we come. we gonna be great again!

[REDACTED]

TRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP
TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMP!!
MAGA

[REDACTED]

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date: [REDACTED]

From: [REDACTED]

To: [REDACTED]

TRUMP is gonna make us great again! everyone gets a new lifted F250, you get an F250, you get an F250, you get an F250



[REDACTED]

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date: [REDACTED]

From: [REDACTED]

To: [REDACTED]

[REDACTED] BPA CBPO

did you see Killarys face on tv just now? do you think she knows the army of TRUMP and GOD is
bout to be unleashed?

Fuck i wanna process and deport HUSSEIN OBAMER!

[REDACTED]

an F250, you get

Page 1 of 2

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date:

From:

To:

40 thousand rednecks strong. America dont know we are about to go after brown wetback take their
shit and ship the rats out in containers full of shit

GOD is

D, you get

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date:

From:

To:

Cleared in CASS. Do you think brandon judd will be secretary of state now?

take

GOD is

, you

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date:

From:

To:

Judd will leave the union and get on that private contractor train building the wall and get rich.
sucking up to trump and rudy giuliani was no accident

Page 1 of 2

[REDACTED]

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date: [REDACTED]

From: [REDACTED]

To: [REDACTED]

we in the wetback killing business and business will be boom'n. i wana go to their houses, deport them then go back [REDACTED] flat screen tv, you know they all have big ass tv's for the soccer shit. goal!!!!!!!!!!!!!!!!!!!!!!.

[REDACTED]

1 of 2

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date:

From:

To:

fuck u you know OFOs will be going back at night after to get (evidence)

port
cer

ch.

Page 1 of 2

(b) (5)



(b) (5)



EXECUTIVE SUMMARY – Twitter handle @alt_uscis


(b) (5)



***** TRANSMISSION REPORT *****

(b) (7)(E)

Date/Time	3-14 15:56
Dialled number	(b) (6), (b) (7)(C)
Subscriber	
Durat.	0' 49"
Mode	NORMAL
Pages	4
Status	Correct

 <p>U.S. DEPARTMENT OF HOMELAND SECURITY Bureau of Customs and Border Protection</p> <p align="center">FACSIMILE TRANSMITTAL CD 2110-035</p>	
Date: _____ Control Number: _____	
TO	Name: <i>Trust + Safety - Legal Policy</i> Organization: <i>Twitter Inc</i> Fax Number: (b) (6), (b) (7)(C) Number of Pages (including cover): <i>4</i>
	Sender: <i>SA Adam Hoffman</i> Originating Location: <i>DHS Customs and Border Protection</i> Return FAX Number: (b) (6), (b) (7)(C) Voice Number: _____
	REMARKS: <i>Please complete the Acknowledgment of Receipt and return to Fax # (b) (6), (b) (7)(C)</i>
	Important: This document may contain confidential and sensitive U.S. Government information. Please deliver it immediately only to the intended recipient(s) listed above. The Bureau of Customs and Border Protection has not approved the documents review, retransmission, dissemination or use by anyone other than the intended recipient(s).
CBP Form 3 (05/03)	



U.S. DEPARTMENT OF HOMELAND SECURITY
Bureau of Customs and Border Protection

FACSIMILE TRANSMITTAL

CD 2110-035

Date:

Control Number:

TO	Name:	<i>Trust & Safety - Legal Policy</i>
	Organization:	<i>Twitter Inc</i>
	Fax Number:	(b) (6), (b) (7)(C)
	Number of Pages (including cover):	<i>4</i>
FROM	Sender:	(b) (6), (b) (7)(C)
	Originating Location:	<i>DHS Customs and Border Protection</i>
	Return FAX Number:	(b) (6), (b) (7)(C)
	Voice Number:	(b) (6), (b) (7)(C)
REMARKS	<i>Please complete the Acknowledgment of Receipt and return to Fax # (b) (6), (b) (7)(C)</i>	

Important: This document may contain confidential and sensitive U.S. Government information. Please deliver it immediately only to the intended recipient(s) listed above. The Bureau of Customs and Border Protection has not approved the documents review, retransmission, dissemination or use by anyone other than the intended recipient(s).

To (Name, Address, City, State, Zip Code)

Twitter, Inc.
c/o Trust & Safety - Legal Policy
1355 Market Street, Suite 900
San Francisco, CA 94103

DEPARTMENT OF HOMELAND SECURITY

SUMMONS NOTICE

to Appear and/or Produce Records
19 U.S.C. § 1509

Attached is a copy of a summons served by U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP), both agencies within the Department of Homeland Security (DHS), to examine records or to request testimony relating to records of your business transactions or affairs which have been made or kept by the person named in Block 1 of the summons.

If you object to the examination of these records, you may stay (prevent) examination of the records until a summons enforcement proceeding is commenced in court. Compliance with the summons will be stayed if, not later than the day before the date indicated in Block 2 of the summons, you advise the person summoned (the person named in Block 1), in writing, not to comply with the summons, and you send a copy of that notice by registered or certified mail to the CBP Officer or ICE Special Agent who issued the summons at the address shown in Block 6 of the summons.

CBP or ICE may begin an action to enforce the summons in the appropriate United States District Court. In such cases, you will be notified and you will have the right to intervene and present your objections before the court. The court will decide whether the person summoned should be required to comply with the summons.

If the court issues an order to comply with the summons and the person summoned fails to comply, the court may punish such failure as a contempt of court. Other sanctions may be provided by law.

If you have any questions regarding this matter, please contact the CBP Officer or ICE Special Agent before whom the summoned person is required to appear. The CBP Officer's or ICE Special Agent's name and telephone number are given in Block 2 of the summons.

1. To (Name, Address, City, State, Zip Code) Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	DEPARTMENT OF HOMELAND SECURITY SUMMONS to Appear and/or Produce Records 19 U.S.C. § 1509
Summons Number (b) (7)(E)	Case Number: (b) (7)(E)

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

- (A) ☐ **APPEAR** before the U.S. Customs and Border Protection (CBP) Officer or U.S. Immigration and Customs Enforcement (ICE) Special Agent named in Block 2 at the place, date, and time indicated to testify and give information.
- (B) ☒ **PRODUCE** the records (including statements, declarations, and other documents) indicated in Block 3 before the CBP Officer or ICE Special Agent named in Block 2 at the place, date, and time indicated.


Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry to ascertain the correctness of entries, to determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure compliance with the laws or regulations administered by CBP and ICE.

Failure to comply with this summons will render you liable to proceedings in a U.S. District Court to enforce compliance with this summons as well as other sanctions.

2. (A) CBP Officer or ICE Special Agent before whom you are required to appear Name (b) (6), (b) (7)(C) Title Special Agent Address 1300 Pennsylvania Ave. N.W. Room 8.3 Washington D.C. 20229 Telephone Number (b) (6), (b) (7)(C)	(B) Date 03/13/2017 (C) Time 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
3. Records required to be produced for inspection All records regarding the twitter account @ALT_USCIS to include, User names, account login, phone numbers, mailing addresses, and I.P addresses.	

You are requested not to disclose the existence of this summons for an indefinite period of time. Any such disclosure will impede this investigation and thereby interfere with the enforcement of federal law.

Issued under authority of section 509, Tariff Act of 1930, as amended by Public law 95-410 (19 U.S.C. § 1509); 44 F.R. 2217; Homeland Security Act of 2002

4. Name of person authorized to serve this summons or any other CBP Officer or ICE Special Agent Special Agent (b) (6), (b) (7)(C)	5. Date of issue 03/14/2017 By (b) (6), (b) (7)(C)
	6. Name, title, address, and telephone number of person issuing this summons Name (b) (6), (b) (7)(C) Title Special Agent in Charge Address 11606 City Hall Promenade Suite 400, Miramar, FL 33025 Telephone Number (b) (6), (b) (7)(C)

If you have any questions regarding this summons, contact the CBP Officer or ICE Special Agent identified in Block 2.

CERTIFICATE OF SERVICE AND ACKNOWLEDGMENT OF RECEIPT

A. CERTIFICATE OF SERVICE OF SUMMONS		
I certify that I served the summons on the front of this form as follows:		
<input type="checkbox"/> I delivered a copy of the summons to the person to whom it was directed, as follows:	Address or Location	Date
		Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
<input checked="" type="checkbox"/> <i>(For corporations, partnerships, and unincorporated associations which may be sued under a common name)</i> I delivered a copy of the summons to an officer, managing or general agent, or agent authorized to accept service of process as follows:	Address or Location Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	Date 03/13/2017 Time 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
	Name of person to whom the summons was delivered <div style="background-color: black; color: red; padding: 2px;">(b) (6)</div>	
Signature <div style="background-color: black; color: white; padding: 5px; display: inline-block;">(b) (6), (b) (7)(C)</div>		
Title Special Agent	Date 03/13/2017	

B. ACKNOWLEDGMENT OF RECEIPT		
I acknowledge receipt of a copy of the summons on the front of this form.		
Signature		
Title	Date	Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 11:17 AM
To: KARISCH, RODOLFO
Subject: FW: (No Subject)

Sir,

Can your staff follow-up on the below tweet.

Thank you.

V/R
Patrick

Patrick Flanagan

(b) (6), (b) (7)(C)

~~Notice: FOR OFFICIAL USE ONLY - this transmission contains material covered by the Privacy Act of 1974 and should be viewed only by personnel having an official "need to know." If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the content of this information is prohibited. If you have received this communication in error, please notify me immediately by email and delete the original message.~~

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 10:39:26 AM
To: MCALEENAN, KEVIN K
Subject: RE: (No Subject)

First we have seen. Will engage OPR.

V/R
Patrick

From: MCALEENAN, KEVIN K
Sent: Thursday, February 23, 2017 2:54:48 AM
To: FLANAGAN, PATRICK S
Subject: FW: (No Subject)

What is this about?

From: (b) (6), (b) (7)(C)
Sent: Wednesday, February 22, 2017 9:38:33 PM
To: (b) (6), (b) (7)(C); MCALEENAN, KEVIN K
Subject:

Is this something someone should investigate? I mean, I know that your officers and agents are often the targets of such things, but...



(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, March 02, 2017 4:55 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Adhoc report request - CBP open cases
Attachments: CBP OPR - All NonClosed Cases with Days (b) (7)(E).xls

(b) (6), (b) (7)(C)

Attached is the report with the requested changes. BTW, I added the date (b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) On Behalf Of ICE-OPR-CMS
Sent: Thursday, March 02, 2017 1:15 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Adhoc report request - CBP open cases

(b) (6), (b) (7)(C)

Attached is your requested report. Please let me know if you have any changes or corrections.

(b) (6), (b) (7)(C)

(b) (7)(E)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Supporting the Border Enforcement and Management Systems Division
Office of Information and Technology
U.S. Customs & Border Protection

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Washington, DC 20536-5501
Attn: (b) (7)(E)

From: (b) (6), (b) (7)(C)
Sent: Thursday, March 02, 2017 10:05 AM
To: ICE-OPR-CMS
Subject: Adhoc report request - CBP open cases

Help Desk,

Can you provide me a report for all open CBP cases?

Parameters:

- All cases

- Subject Type: CBP employee, contractor, civilian
- Status: all except for Closed

Report:

(b) (7)(E)

Any questions just let me know.

Thanks!

(b) (6), (b) (7)(C)

SUPERVISOR, JOINT INTAKE CENTER (JIC)

CBP | OFFICE OF PROFESSIONAL RESPONSIBILITY | INVESTIGATIVE OPERATIONS DIVISION

(b) (6), (b) (7)(C)

Case #	Case Type	Status	Case Is	Incident City	Incident State	Group	Org	(b) (7)(E)	Subject Name	Subject Type	Subject Office	Summary	(b) (7)(E)	(b) (7)(E)	# Days	Created	Remarks	Lead Agcy	Sppt Agcy
(b) (7)(E)	Management Review	Open	Review in Progress	UNKNOWN	UNKNOWN-UNK	(b) (7)(E)	Pending	Unknown	(b) (7)(E)	UNKNOWN UNKNOWN	CBP Other/Unknown	Unknown	@ALT_USCIS Twitter account reportedly posting documents that appear to be CBP emails	(b) (7)(E)	(b) (7)(E)	0	23-FEB-17		

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, March 02, 2017 6:26 PM
To: (b) (6), (b) (7)(C)
Subject: Copy of CBP OPR - All NonClosed Cases as of 03022017.xls
Attachments: Copy of CBP OPR - All NonClosed Cases as of 03022017.xls

Case #	Case Type	Status	Case Is	Incident City	Incident State	Group	Org	(b) (7)(E)	Subject Name	Subject Type	Subject Office	Summary	(b) (7)(E)	# Days	Created	Remarks	Lead Agcy	Sppt Agcy
(b) (7)(E)	Management Review	Open	Review in Progress	UNKNOWN	UNKNOWN UNK	(b) (7)(E) Pending	Unknown		UNKNOWN UNKNOWN	CBP Other/Unknown	Unknown	@ALT_USCIS Twitter account reportedly posting documents that appear to be CBP emails		0	23-FEB-17			

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Monday, April 10, 2017 5:45 AM
To: (b) (6), (b) (7)(C)
Subject: Big Brother Gets Big Finger From Twitter

CBP Target of Lawsuit by Twitter



By Michael Kal

Friday Apr 07, 2017 · 4:33 AM EDT

2017/04/07 · 04:33

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Big Brother Gets Big Finger From Twitter

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6

Big Brother Gets Big Finger From Twitter

BREAKING NEWS;

Twitter filed suit against the US government for a summons it received last month on an alternative government website, @ALT_uscis. The summons was sent last month from CBP and its parent agency, the Department of Homeland Security. Twitter responded by filing the suit in response to protect the identity of the anonymous users. The ACLU is also acting as representatives to the account holder. Both Twitter and the ACLU assert there was not strong justification to request the information.

In seeking the user names, login records, phone numbers, physical addresses and IP addresses of anyone associated with the account, it is believed to be a blatant attempt to chill first amendment rights, absent any real cause other than harassment. Alternative websites in parody to actual .gov websites, present data that was taken from the official sites after Trump ordered data restricted and limited access to citizens.

"In this case the government has given no reason at all, leading to concerns that it is simply trying to stifle dissent," said Nathan Freed Wessler, a lawyer with the ACLU's Speech, Privacy and Technology Project.

The @ALT_uscis website tweets sharply critical comments about U.S. immigration policy and President Donald trump under the guise of disgruntled employees of U.S. Citizenship and Immigration Services. Protected action under our First Amendment is again under attack by the new gestapo operating under orders disguised as "National Security" for Hair Twitler. The original story can be found [here](#)

(b) (6), (b) (7)(C)

From: (b) (6)
Sent: Thursday, April 06, 2017 10:30 PM
To: (b) (6), (b) (7)(C)
Subject: The government is demanding to know who this Trump critic is. Twitter is suing to keep it a secret. - The Washington Post

Please stop.

The firing squad needs a vacation.

https://www.washingtonpost.com/news/the-switch/wp/2017/04/06/the-government-is-demanding-to-know-who-this-trump-critic-is-twitter-is-suing-to-keep-it-a-secret/?hpid=hp_rhp-banner-low_twitter-suit-530pm%3Ahomepage%2Fstory&utm_term=.cc3371dfa5f5

The government is demanding to know who this Trump critic is. Twitter is suing to keep it a secret.

U.S. government targets critical Twitter user

Play Video0:56

Twitter filed a federal lawsuit on April 6 to block an order by the U.S. government demanding that it reveal who is behind an account opposed to President Trump's tough immigration policies. (Reuters)

Twitter filed a lawsuit Thursday to block an order from the Department of Homeland Security that seeks to reveal the user of an account who has been critical of the Trump administration's immigration policies.

Tweets from the account -- @ALT_uscis -- indicate that it is run by someone who is an employee of the U.S. Citizenship and Immigration Services division of Homeland Security.

Free speech advocates said the DHS order appeared to be the first time the government has attempted to use its powers to expose an anonymous critic -- a development that, if successful, would have a "grave chilling effect on the speech of that account" as well as other accounts critical of the U.S. government, Twitter said.

[One thing Trump has stopped doing on Twitter since inauguration]

DHS is "unlawfully abusing a limited-purpose investigatory tool" to find out who is behind the @ALT_uscis account, according to Twitter's court filings.

DHS spokeswoman Jenny Burke declined to comment, citing the pending litigation.

The case sets up a potential showdown over free speech between Silicon Valley and Washington, which has tussled over whether tech firms can resist government orders seeking the identity or personal information from criminals and suspected terrorists.

Apple, for instance, declined in early 2016 to unlock the phone of the shooter in San Bernardino, Calif., and has refused to build "back doors" that would enable law enforcement to break into smartphones. The move sparked a pitched battle between the company and the FBI, which eventually paid a private expert to unlock the device.

But the Homeland Security case struck free speech advocates as more remarkable because the information request was about the identity of a government critic, rather than public safety.

"Twitter has a pretty strong argument," said Andrew Crocker, a staff attorney for the Electronic Frontier Foundation. "It does look and smell like the government is going after a critic. There's nothing in the summons that CBP [Customs and Border Protection] sent to Twitter that authorizes this request under the power that they have."

The @ALT_uscis account, which was created in January, has not held back in firing attacks against the Trump administration.

In a Jan. 26 tweet, the @ALT_uscis account tweeted: "Fact: More than 40% of illegal aliens in the US are Visa overstays from other developed countries not sounding like MEXICO #TheResistance."

The account has also called attention to mismanagement in agency operations. In a March 12 tweet, it said that "USCIS turns down regularly private companies who propose collaboration to streamline the intake process, reducing costs and processing time."

The account's description stresses that its views are "Not the views of DHS or USCIS." As of the time of the court filing, the account had been active for two months and amassed more than 32,000 followers. By 8:15 p.m., that figure had grown to more than 86,000.

In its court filing with the U.S. District Court in the Northern District of California, Twitter said that DHS officials delivered an administrative summons to the social-networking site on March 14, via a CBP agent, demanding that the company provide records that would "unmask or likely lead to the unmasking" of the person or people behind the account.

Twitter maintains that CBP does not have jurisdiction to demand such information, which includes "names, account login, phone numbers, mailing addresses, and I.P. addresses," associated with the account.

But its primary objection, the company said, is that allowing the government to unmask Twitter critics violates the Constitution's First Amendment right to free speech. Twitter has defended its users' rights to free expression -- a position it has held for years, notably during the widespread Arab Spring protests in 2011. That right, the company said, is particularly important when discussing political speech.

"First Amendment interests are at their zenith when, as here, the speech at issue touches on matters of public political life," the filing said.

Twitter added that it feared the government wants to punish the person or people responsible for the account. The summons, Twitter said, "may reflect the very sort of official retaliation that can result from speech that criticizes government officials and agencies."

The company also has a lot at stake for its business, which could see a huge hit if anonymous users could suddenly be unmasked by the government. Unlike other social networks, Twitter allows its users to create accounts without publicly revealing their true identity.

This isn't the first time Twitter has tangled with officials over its users' personal information.

The company in 2012 appealed an order from the state of New York to reveal the identity of Occupy Wall Street protester Malcolm Harris. It lost that appeal. Twitter sued the Justice Department in 2014 for the right to make federal information requests for user data public. And it has lent its support to other companies' fights against the government, including Apple's opposition to the FBI order.

The American Civil Liberties Union, which is representing the user in the DHS case, expressed concern that the order is an attempt to curb free speech. "To unmask an anonymous speaker online, the government must have a strong justification," ACLU attorney Nathan Freed Wessler said in a statement. "But in this case the government has given no reason at all, leading to concerns that it is simply trying to stifle dissent."

ACLU said it plans to make its own filing in the court on behalf of the user in the next few days.

The Switch newsletter

The day's top stories on the world of tech.

"It's about the broader right to speak anonymously on the Internet," said Esha Bhandari, an ACLU staff attorney.

The @ALT_uscis account is one of many "alternative government" accounts that have popped up since Donald Trump's election. Accounts apparently run by employees (or former employees) of the National Park Service, the National Weather Service, the Labor Department and other agencies have appeared to question the Trump administration's policies and fact-check its assertions on a variety of topics.

[\[National Weather Service has an 'alt' Twitter, and it already has over 71,000 followers\]](#)

The @ALT_uscis account didn't respond to a tweet asking for comment on the suit, but was tweeting about the case and the account's new followers.

Staff writer Craig Timberg contributed to this report

(b) (6)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 10:04 AM
To: (b) (6), (b) (7)(C)
Subject: FW: Oops
Attachments: AltTwitterSty040617.pdf

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 9:57 AM
To: (b) (6), (b) (7)(C)
Subject: FW: Oops

OPR named here and (b) (6), (b) (7)(C). You know about this? Haven't read it all.

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 06, 2017 4:32:30 PM
To: (b) (6), (b) (7)(C)
Subject: Oops

Add this to your library of CBP OPR mistakes.

(b) (6), (b) (7)(C)
Senior Special Agent
U.S. Customs and Border Protection (CBP)
Office of Professional Responsibility (OPR)
(b) (6), (b) (7)(C)
San Francisco, CA
(b) (6), (b) (7)(C)

1 SETH P. WAXMAN (*pro hac vice* pending) seth.waxman@wilmerhale.com
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3 ARI HOLTZBLATT (*pro hac vice* pending) ari.holtzblatt@wilmerhale.com
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Facsimile: (650) 858-6100

Attorneys for Plaintiff
TWITTER, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

TWITTER, INC.,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY; U.S. CUSTOMS AND
BORDER PROTECTION; JOHN F. KELLY,
in his official capacity as Secretary of
Homeland Security; KEVIN K.
MCALEENAN, in his official capacity as
Acting Commissioner, U.S. Customs and
Border Protection; STEPHEN P. CARUSO,
in his official capacity as Special Agent In
Charge, U.S. Customs and Border Protection;
and ADAM HOFFMAN, in his official
capacity as Special Agent, U.S. Customs and
Border Protection,

Defendants.

Case No. _____

COMPLAINT

Plaintiff Twitter, Inc. ("Twitter"), by and through its attorneys, hereby alleges:

INTRODUCTION

1. This is an action to prevent the U.S. Department of Homeland Security ("DHS"), U.S. Customs and Border Protection ("CBP"), and the individual Defendants from unlawfully abusing a limited-purpose investigatory tool to try to unmask the real identity of one or more persons who have been using Twitter's social media platform, and specifically a Twitter account

1 named @ALT_USCIS, to express public criticism of the Department and the current
2 Administration. The rights of free speech afforded Twitter's users and Twitter itself under the
3 First Amendment of the U.S. Constitution include a right to disseminate such anonymous or
4 pseudonymous political speech. In these circumstances, Defendants may not compel Twitter to
5 disclose information regarding the real identities of these users without first demonstrating that
6 some criminal or civil offense has been committed, that unmasking the users' identity is the least
7 restrictive means for investigating that offense, that the demand for this information is not
8 motivated by a desire to suppress free speech, and that the interests of pursuing that investigation
9 outweigh the important First Amendment rights of Twitter and its users. But Defendants have
10 not come close to making any of those showings. And even if Defendants could otherwise
11 demonstrate an appropriate basis for impairing the First Amendment interests of Twitter and its
12 users, they certainly may not do so using the particular investigatory tool employed here—which
13 Congress authorized solely to ensure compliance with federal laws concerning imported
14 merchandise—because it is apparent that whatever investigation Defendants are conducting here
15 does not pertain to imported merchandise.

16 2. In the days and weeks following the inauguration of President Donald J. Trump, a
17 new and innovative class of American speakers emerged on Twitter's ubiquitous online
18 platform: speakers who purport to be current or former employees of federal agencies, or others
19 with special insights about the agencies, who provide views and commentary that is often
20 vigorously opposed, resistant, or "alternative" to the official actions and policies of the new
21 Administration. Typically, these so-called "alternative agency" accounts are named and self-
22 described by their users in a manner that both (a) identifies the particular federal agency that the
23 user seeks primarily to criticize and with which the user purports to have significant knowledge,
24 and (b) proclaims that the user is not an official voice or spokesperson for the agency. Examples
25 of these accounts include @alt_labor, which purports to provide informed but unofficial
26 commentary on the U.S. Department Labor, and @blm_alt, which does the same for the federal
27 Bureau of Land Management. Dozens of such accounts have sprung up, and many of them are
28 actively used to disseminate criticism of the Administration and its policies. Many of these

1 accounts have attracted large audiences of other Twitter users (“followers”), often numbering in
2 the tens of thousands or more.

3 3. Like many Twitter users, those who speak through these “alternative agency”
4 accounts do so pseudonymously, often going to considerable lengths to avoid disclosing their
5 real identities. The motivations these users have for preserving their anonymity presumably
6 include a desire to speak freely and without the fear of negative consequences that may flow
7 from being identified as the source of controversial views and commentary concerning the
8 Administration and its agencies. Such fears are likely to be especially great for users of
9 “alternative agency” accounts who are currently employed by the very agency that is a principal
10 target of the commentary, in light of the retaliation, harassment, or even loss of livelihood that
11 might occur if their real identities became known to their superiors.

12 4. One such “alternative agency” account is @ALT_USCIS. Like other accounts of
13 this sort, @ALT_USCIS claims to be run by one or more current government employees—in this
14 case, employees of the United States Citizenship and Immigration Services (“USCIS”), a unit
15 within the Defendant DHS. And as with other such accounts, the person or persons who
16 established and speak through @ALT_USCIS have identified themselves only by means of this
17 pseudonymous account name. To the best of Twitter’s knowledge, they have not disclosed their
18 real identities in any of their public communications through this account.

19 5. In the just over two months since it was created, @ALT_USCIS has frequently
20 criticized the immigration policies of the new Administration, highlighted what the user views as
21 a history of waste and mismanagement within USCIS and DHS, and publicized facts that the
22 account’s users portray as casting doubt on Administration policies.

23 6. The Defendants are now threatening the anonymity of the person(s) speaking
24 through the @ALT_USCIS account. Specifically, on March 14, 2017, they issued and delivered
25 to Twitter an administrative summons (the “CBP Summons”) demanding that Twitter provide
26 them records that would unmask, or likely lead to unmasking, the identity of the person(s)
27 responsible for the @ALT_USCIS account. The summons was issued by a Special Agent in
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Charge within U.S. Customs and Border Protection, another unit of DHS. The CBP Summons is unlawful and must be enjoined for two reasons.

7. *First*, the sole statutory authority CBP invoked in issuing the summons—19 U.S.C. § 1509—authorizes the agency to compel production of only a narrow class of records relating to the importation of merchandise. But CBP’s investigation of the @ALT_USCIS account plainly has nothing whatsoever to do with the importation of merchandise into the United States. Section 1509 thus provides CBP no power to compel Twitter to reveal information pertaining to the identity of the individual(s) behind the @ALT_USCIS account.

8. *Second*, permitting CBP to pierce the pseudonym of the @ALT_USCIS account would have a grave chilling effect on the speech of that account in particular and on the many other “alternative agency” accounts that have been created to voice dissent to government policies. The Supreme Court has long recognized the extraordinary value of the kind of speech emanating from these accounts—pure political speech criticizing government policies and highlighting government waste and mismanagement. And the Court has likewise recognized that anonymity is often essential to fostering such political speech where, as here, the speaker could face retaliation or retribution if his or her real identity were linked to the speech. In this context, the CBP Summons must be declared unlawful and enjoined absent an evidentiary showing by Defendants that some criminal or civil offense has been committed, that unmasking the users’ identity is the least restrictive means for investigating that offense, that the demand for this information is not motivated by a desire to suppress free speech, and that the interests of pursuing that investigation outweigh the important free speech rights of Twitter and its users. Defendants have not even attempted to meet that burden.

9. For these and other reasons discussed below, Twitter respectfully requests that this Court declare the summons unlawful and enjoin its enforcement.

JURISDICTION AND VENUE

10. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the First Amendment to the U.S. Constitution, the Administrative Procedure Act (“APA”), the Tariff Act of 1930, as amended, and other Federal statutes.

11. This Court is authorized to award the requested declaratory and injunctive relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202 and the APA, 5 U.S.C. § 706.

12. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) and (e)(1). A substantial part of the events giving rise to this claim occurred in this District, and each Defendant is an officer or agency of the United States sued in his or its official capacity.

PARTIES

13. Twitter is a Delaware corporation with its principal place of business at 1355 Market Street, San Francisco, CA 94103. Twitter operates a global platform for self-expression and communication, with the mission of giving everyone the power to create and share ideas and information instantly. Twitter's more than 300 million active monthly users use the platform to connect with others, express ideas, and discover new information. Hundreds of millions of short messages (known as "Tweets") are posted on Twitter every day. Twitter provides these services at no charge to its users.

14. The U.S. Department of Homeland Security is a cabinet department of the United States federal government. Its stated missions include antiterrorism, border security, immigrations and customs, and disaster prevention and management.

15. The U.S. Customs and Border Protection is an agency within DHS. It is responsible for managing and controlling the border of the United States, including with respect to import customs, immigration, border security, and agricultural protection.

16. John F. Kelly is the Secretary of DHS. He is sued in his official capacity.

17. Kevin K. McAleenan is the Acting Commissioner of CBP. He is sued in his official capacity.

18. Stephen P. Caruso is a special agent in charge within CBP. He is sued in his official capacity.

19. Adam Hoffman is a special agent within the Office of Professional Responsibility of CBP. He is sued in his official capacity.

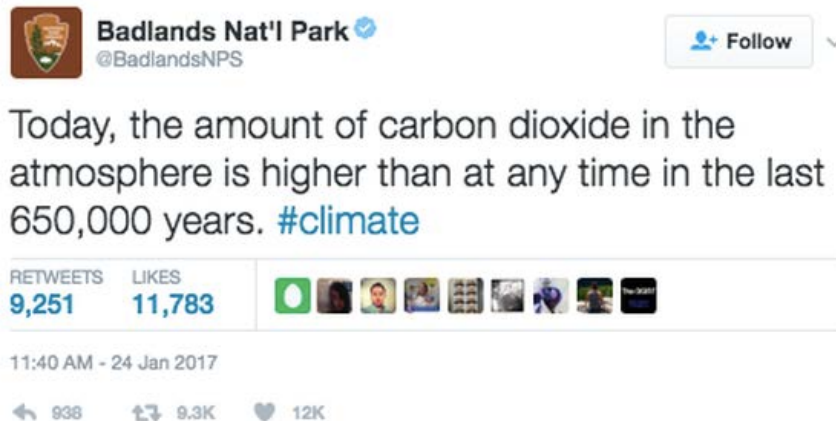
FACTUAL BACKGROUND

The Emergence And Popularity Of “Alternative Agency” Accounts On The Twitter Platform

20. President Donald J. Trump was inaugurated on January 20, 2017. That day the official Twitter account of the National Park Service retweeted an image comparing the crowd size at President Trump’s inauguration to the apparently larger crowd size at President Obama’s 2009 inauguration.

21. As the public began to remark on the agency’s retweet, the National Park Service abruptly shut down its own account and sent an internal email to agency employees explaining that “[a]ll bureaus and the department have been directed by [the] incoming administration to shut down Twitter platforms immediately until further notice.” And President Trump called the acting director of the National Park Service to complain about the agency retweeting an unflattering comparison of his inaugural crowd size. The day after the inauguration, the Park Service reactivated its official account and Tweeted an apology for “the mistaken [retweets] from our account yesterday.”¹

22. Four days after the inauguration, on January 24, 2017, the official Twitter account for Badlands National Park began to Tweet a series of statements about climate change from the @BadlandsNPS account.



¹ Lisa Rein, *Interior Department Reactivates Twitter Accounts After Shutdown Following Inauguration*, WASH. POST (Jan. 21, 2017), https://www.washingtonpost.com/news/powerpost/wp/2017/01/20/interior-department-banned-from-twitter-after-retweet-of-smaller-than-usual-trump-inauguration-crowd/?utm_term=.4e6d99996772.

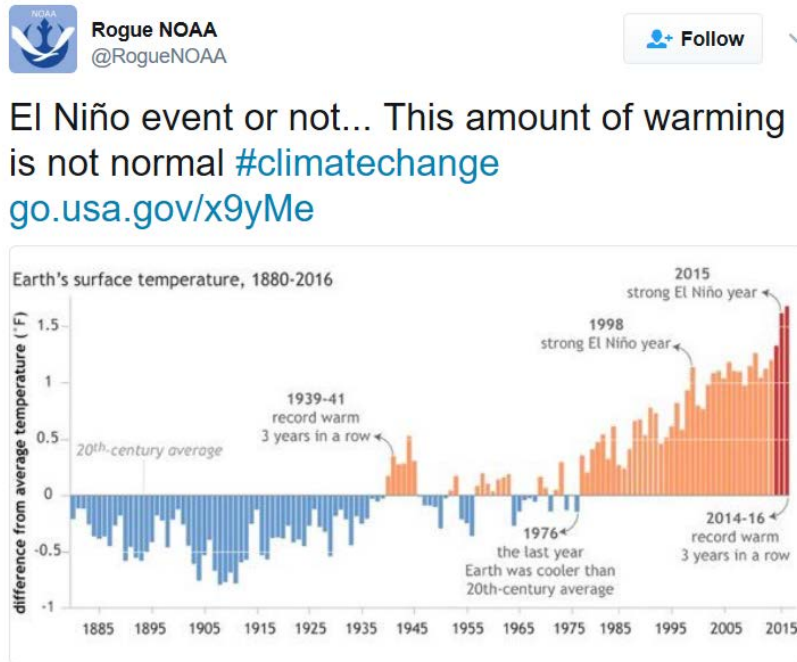
1 23. Press reports described the @BadlandsNPS account as having gone “rogue,” and
2 the National Park Service explained that a former employee who still had access to the
3 @BadlandsNPS account had been responsible for the Tweets. The Park Service quickly
4 removed the unauthorized Tweets and blocked the former employee’s access.

5 24. Shortly thereafter, a new wave of Twitter accounts began to appear on the
6 Twitter platform: self-identified as expressing “alternative” ideas, views, and information about
7 a particular federal agency. Although seemingly inspired by the National Park Service’s
8 inauguration day Tweet or by the short-lived takeover of the @BadlandsNPS account, these new
9 alternative agency accounts were not “official” accounts of any government agency. Instead,
10 they operated under names such as @blm_alt, @alt_labor, and @RogueEPastaff. Within
11 weeks, dozens of such accounts had been created, many attracting tens of thousands of followers
12 or more. In some cases, multiple alternative agency accounts appeared for a single agency.

13 25. While some of these alternative agency accounts appear to be run by former
14 federal employees or activists with no connection to the government, many of the accounts
15 claim, through their user-created account descriptions or the content of their Tweets, to be
16 administered by individuals who are currently employed by the federal agency after which the
17 account is named.

18 26. These self-designated alternative agency accounts have tended to challenge views
19 of the Administration and its policies, often (but not always) focusing on the policies of the
20 particular agency for which the account was named. The styles of expression emanating from
21 these accounts vary greatly.
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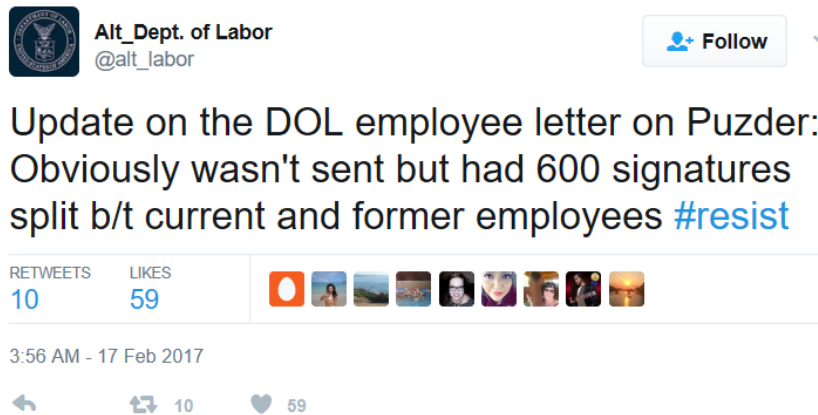
27. Some accounts appear to equate the simple act of broadcasting facts as an expression of dissent.



28. The accounts often have expressed disagreement with specific policies of the official agency.



29. One of the many Tweets from the @alt_labor account publicized a letter signed by 600 current and former Labor Department employees opposing the confirmation of the President's nominee for Labor Secretary, Andrew Puzder.



30. Like many online platforms, Twitter's platform offers users the choice between speaking in a self-identifying manner (for example, by selecting a user name that matches or is similar to the user's real name) or pseudonymously (through an account that has a user name and user description that do not disclose the speaker's real identity).

31. Pseudonymity of the speaker(s) is a defining feature of the alternative agency accounts that have recently emerged on the Twitter platform. While the persons who establish and use these accounts sometimes provide highly general descriptions of themselves (for example, by stating in the account's biography that the user or users work or previously worked for a particular agency), they typically refrain from revealing their real names. The users appear to view and depend on preservation of their anonymity as crucial to their ability to express information and ideas that are contrary to the policies and objectives of the Administration and its agencies. Preserving anonymity appears to be especially important for users of these alternative agency accounts who are current federal employees, given the risk that such users could face retaliation, sanctions, or other negative repercussions from their federal employer if they were identified as the source of criticism of their agency.²

² Alleen Brown, *Rogue Twitter Accounts Fight To Preserve The Voice Of Government Science*, THE INTERCEPT (Mar. 11, 2017), <https://theintercept.com/2017/03/11/rogue-twitter-accounts-fight-to-preserve-the-voice-of-government-science> (reporting that several "alternative agency" accounts are administered by current agency employees and that those employees wish to

The @ALT_USCIS Twitter Account

32. This case concerns one particular alternative agency account that, like many others, was created in late January 2017: @ALT_USCIS.

33. As of the time Twitter received the CBP Summons, the public, user-provided description of the @ALT_USCIS account described its user or users as “[o]fficial inside resistance.” As of then and now, the account description prominently declares that the account is “[n]ot [expressing] the views of DHS or USCIS.” The account’s profile image plays off USCIS’s official logo (displayed side-by-side below), further indicating a correspondence or relationship to the agency, albeit one that is unofficial, ideologically or politically averse, and/or “rogue.”³ Tweets from this account use hashtags such as “#altgov,” expressly self-identifying as part of the broader alternative agency movement.



34. On several occasions, Tweets from the @ALT_USCIS account have claimed that the person speaking through the account is a current federal employee of the United States Citizenship and Immigration Services (USCIS), an entity that reportedly has 19,000 employees and contractors. But beyond purporting to identify his or her employer, the person(s) using the account have chosen to remain pseudonymous.

35. In two months of existence, the @ALT_USCIS account has attracted over 32,000 followers and has issued thousands of Tweets.

preserve their anonymity “out of fear of workplace retaliation and pressure to shut down their accounts”).

³ The accountholder reworked the account’s description and profile image at some point after Twitter received the CBP Summons. The profile image displayed above is as it was when the summons was received.

36. The @ALT_USCIS account has expressed dissent in a range of different ways. One of the account's first Tweets asserted a fact about illegal immigration in the United States that the author apparently believed cast doubt on the Administration's immigration policy.

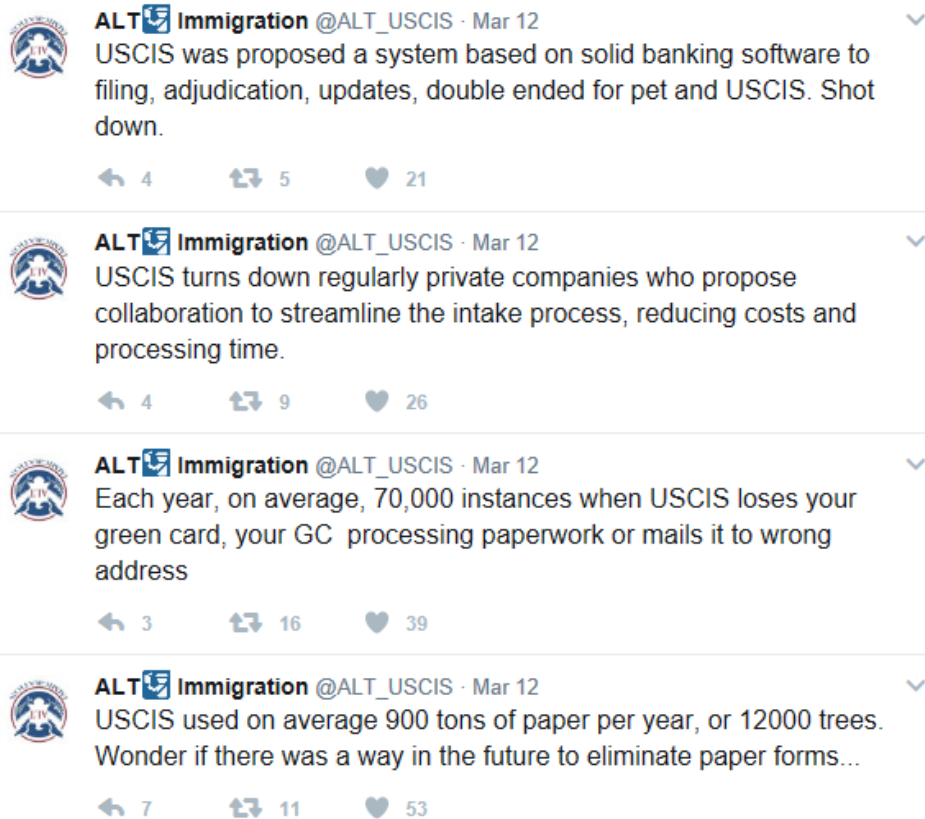


37. The @ALT_USCIS account has often criticized immigration policies with which the speaker apparently disagrees. The account was created on nearly the same day that the President issued his original immigration Executive Order. Tweets from the account have repeatedly criticized the Order—often referring to it as the “#MuslimBan.” Other Tweets have taken aim at the President's proposal to build a wall along the U.S.-Mexico border. For example, on March 11, 2017, the account used news that a fence-jumper had trespassed onto the White House grounds to argue that the Administration's proposed border fence will be ineffective.



38. Tweets from the @ALT_USCIS account have also purported to shine a light on historical and recent mismanagement at USCIS. For example, on March 12—two days before issuance of the CBP Summons challenged in this suit—a series of Tweets from the account

1 decried what the author described as waste, inefficiency, and poor management in the agency's
 2 attempts to set up a new automated system for processing immigration applications.



22 39. The account has regularly leveled criticism at U.S. Customs and Border
 23 Protection—the agency that issued the summons challenged by this lawsuit.



34 40. The account has also frequently tweeted disagreement with the current
 35 Administration's policies on subjects other than immigration—expressing opposition to efforts in

1 Congress to repeal the Affordable Care Act and urging Democrats to resist confirmation of
 2 Supreme Court nominee Neil Gorsuch, among many other issues.

3 41. Occasionally, the account has highlighted USCIS or DHS policies that the speaker
 4 appears to support. For example, the day DHS Secretary Kelly announced that the Department
 5 would continue to exempt from removal individuals covered by the prior Administration's
 6 Deferred Action for Childhood Arrivals policy (DACA), the account issued the following Tweet.



14 U.S. Customs And Border Protection Orders Twitter To Produce
 15 Records That Would Strip The @ALT_USCIS Account Of Anonymity

16 42. On March 14, 2017, Defendant Adam Hoffman, an agent within U.S. Customs
 17 and Border Protection, transmitted to Twitter by fax a summons, ordering Twitter to produce
 18 certain records pertaining to the @ALT_USCIS account. The CBP Summons invoked as
 19 authority 19 U.S.C. § 1509. It was signed by Defendant Stephen P. Caruso, a CBP Special
 20 Agent in Charge based in Miramar, Florida. A true and accurate copy of the CBP Summons, in
 21 the form it was received by Twitter, is attached as Exhibit A.

22 43. The CBP Summons states that Twitter is “required” to “produce[] for inspection”
 23 “[a]ll records regarding the [T]witter account @ALT_USCIS to include, User names, account
 24 login, phone numbers, mailing addresses, and I.P. addresses.” The purpose of this request
 25 appears to be, and the effect of Twitter’s complying with it likely would be, to enable or help to
 26 enable Defendants to pierce the anonymity of the person or persons who established and use the
 27 @ALT_USCIS account.
 28

1 44. The CBP Summons warned Twitter that “[f]ailure to comply with this summons
2 will render you liable to proceedings in a U.S. District Court to enforce compliance with this
3 summons as well as other sanctions.”

4 45. The CBP Summons ordered Twitter to produce the records to a CBP office in
5 Washington D.C. by 11:45 A.M. on March 13, 2017—the day *before* the CBP Summons was
6 faxed to Twitter.

7 46. The CBP Summons states generically that “production of the indicated records is
8 required in connection with an investigation or inquiry to ascertain the correctness of entries, to
9 determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure
10 compliance with the laws or regulations administered by CBP and ICE.” Beyond that boilerplate
11 language, the CBP Summons provides no justification for issuance of a summons targeting the
12 @ALT_USCIS account.

13 47. The CBP Summons further “requested”—but did not order or otherwise compel—
14 Twitter “not to disclose the existence of this summons for an indefinite period of time.”

15 48. Notwithstanding the request on the face of the CBP Summons that Twitter not
16 disclose the existence of the CBP Summons to anyone, a “Summons Notice” included in the
17 CBP Summons describes a procedure whereby the subject of the summons (i.e., the person
18 whose “business transactions or affairs” are purportedly being investigated) supposedly could
19 “object to the examination” of the requested records by “advis[ing] the person summoned [i.e.
20 Twitter], in writing, not to comply with the summons” and “send[ing] a copy of that notice by
21 registered or certified mail to the CBP Officer ... who issued the summons.” To be effective,
22 any such objection would have to be sent “not later than the” deadline set by the CBP Summons
23 for compliance—which, again, had already passed by the time the CBP Summons was served on
24 Twitter. Neither the CBP Summons itself, nor the statute that supposedly authorizes issuance of
25 the summons (*i.e.*, 19 U.S.C. § 1509), nor the regulations implementing that statute describe any
26 procedure for Twitter to object to compliance with the summons.

27 49. On March 28, 2017, counsel for Twitter contacted Defendant Hoffman to raise
28 concerns regarding the request not to provide notice to the user and the legal basis for seeking

1 information about the identified account using a summons issued under 19 U.S.C. § 1509.
2 Defendant Hoffman advised counsel for Twitter that CBP did not want the user notified and that
3 he would discuss notice with his supervisors. With regard to the legal basis for the summons,
4 Defendant Hoffman stated vaguely that he is conducting an investigation. But he did not identify
5 any law or laws that he believed had been broken or point to any evidence substantiating any
6 such belief—such as particular Tweets that he believes were unlawful. Defendant Hoffman took
7 the position that the summons was an appropriate investigative tool, but he did not provide any
8 specifics as to how a summons issued under 19 U.S.C. § 1509 could be an appropriate means for
9 CBP’s Office of Professional Responsibility to be conducting this particular investigation. In
10 fact, to the limited extent he did explain the nature of the investigation, it seemed to confirm that
11 the investigation had nothing to do with obtaining records to assess whether appropriate duties
12 and taxes had been paid on imported merchandise.

13 50. Twitter advised Defendant Hoffman that, unless he or his agency obtained a court
14 order under the federal Stored Communications Act, 18 U.S.C. § 2705, directing Twitter not to
15 disclose the CBP Summons to the @ALT_USCIS accountholder(s), Twitter would, in
16 accordance with its standard practices, notify the accountholder(s) of the existence and content of
17 the CBP Summons. On March 31, 2017, Defendant Hoffman sent Twitter an email confirming
18 that no such court order would be obtained. On April 2, 2017, Twitter stated in a response to
19 Defendant Hoffman that it intended to notify the accountholder(s) the next day about the CBP
20 Summons.

21 51. On April 4, 2017, Twitter notified the @ALT_USCIS accountholder(s) about the
22 existence and contents of the CBP Summons. At approximately the same time, Twitter also
23 informed Defendant Hoffman of its intention to challenge the CBP Summons in court if it was
24 not withdrawn within 48 hours. Later that day, counsel for Twitter sent Defendant Hoffman an
25 email elaborating the bases for Twitter’s legal objections to the CBP Summons—namely that the
26 summons falls outside the statutory parameters of 19 U.S.C. § 1509 and infringes on the First
27 Amendment rights of Twitter’s users and Twitter itself—and reiterating Twitter’s intention to
28 sue absent withdrawal of the summons.

52. As of today's date, Defendants have not notified Twitter of any intent to withdraw the CBP Summons.

COUNT I
(19 U.S.C. § 1509; Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202;
APA, 5 U.S.C. § 706)

THE SUMMONS EXCEEDS THE SCOPE
OF CBP'S AUTHORITY UNDER 19 U.S.C. § 1509

53. Plaintiff hereby incorporates by reference paragraphs 1-52 as if set forth fully herein.

54. The summons is unlawful because it demands production of records that CBP is not authorized to obtain under 19 U.S.C. § 1509.

55. The summons exceeds the scope of CBP's authority under 19 U.S.C. § 1509 for two reasons. *First*, 19 U.S.C. § 1509 authorizes CBP to obtain documents only for investigations and inquiries relating to the importation of merchandise. *Second*, even if CBP issued the summons for a proper purpose, the summons seeks production of records that are not of the narrowly limited type that CBP is authorized to obtain under 19 U.S.C. § 1509. These two reasons are explained more fully below.

56. *First*, 19 U.S.C. § 1509 confers authority on the Secretary (or a delegate at or above the rank of district director or special agent in charge) to compel disclosure of records only in connection with "any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty, fees and taxes due or duties, fees and taxes which may be due the United States, for determining liability for fines and penalties, or for insuring compliance with the laws of the United States administered by the United States Customs Service." 19 U.S.C. § 1509(a). The first three items on the list clearly relate narrowly to imports, and the meaning of the fourth term is "cabin[ed]" by the first three. *See Yates v. United States*, 135 S. Ct. 1074, 1085 (2015) (applying "the principle of *noscitur a sociis*—a word is known by the company it keeps—to 'avoid ascribing to one word a meaning so broad that it is inconsistent with its accompanying words, thus giving unintended breadth to the Acts of Congress.'" (quoting *Gustafson v. Alloyd Co.*, 513 U.S. 561, 575 (1995))).

57. Defendants could not plausibly establish that they issued the CBP Summons—which demands “[a]ll records regarding the [T]witter account @ALT_USCIS to include User names, account login, phone numbers, mailing addresses, and I.P. addresses”—in any investigation or inquiry relating to the import of merchandise.

58. *Second*, § 1509 does not authorize the Defendants to compel production of the account-related records that the summons demands. The Secretary or his delegate can compel the production of only records that fall within a narrow category defined in 15 U.S.C. § 1509(d)(1)(A). *See* 15 U.S.C. § 1509(a)(2)(D) (“[T]he Secretary ... may ... summon ... any ... person he may deem proper ... to produce records, *as defined in subsection (d)(1)(A).*”).

59. Subsection 1509(d)(1)(A) limits the “records” whose production may be permissibly compelled through a summons to those (1) that are “required to be kept under section 1508 of this title” and (2) “regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited.” The records that the CBP Summons demands Twitter to disclose meet neither of these criteria.

60. Section 1508 requires importers to maintain certain records relating to their activity of importing merchandise. *See United States v. Frowein*, 727 F.2d 227, 233 (2d Cir. 1984) (“Section 1508 ... imposes recordkeeping requirements on those who import or cause goods to be imported.”). Specifically, the entities that must maintain records under section 1508 are limited to the following: any “owner, importer, consignee, importer of record, entry filer, or other party who—(A) imports merchandise into the customs territory of the United States, files a drawback claim, or transports or stores merchandise carried or held under bond, or (B) knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States,” 19 U.S.C. § 1508(a)(1); *or* any “agent of any party described in paragraph (1),” *id.* § 1508(a)(2); *or* any “person whose activities require the filing of a declaration of entry, or both,” *id.* § 1508(a)(3). The records Section 1508 requires these entities to maintain are limited to records that both “pertain to any such activity, or to the information contained in the records required by this chapter in

1 connection with any such activity” and “are normally kept in the ordinary course of business.” 19
 2 U.S.C. § 1508(a)(3).

3 61. Subsection 1509(d)(1)(A)(ii) likewise limits the scope of records whose
 4 production CBP may compel pursuant to a summons to records relating to the importation of
 5 merchandise—specifically, records “pertain[ing] to *merchandise the importation of which into*
 6 *the United States is prohibited.*”

7 62. The CBP Summons plainly does not request records relating to the importation of
 8 merchandise. It requests that Twitter produce information that pertains to the identity of the
 9 person(s) who established and use the @ALT_USCIS account. And it is utterly implausible that
 10 Defendants’ interest in the person(s) who established and use the @ALT_USCIS account stems
 11 from their importation of merchandise into the United States.

12 63. The CBP Summons also violates the Stored Communications Act (“SCA”),
 13 18 U.S.C. § 2701 *et seq.*, which “protects individuals’ privacy and proprietary interests,”
 14 “reflect[ing] Congress’s judgment that users have a legitimate interest in the confidentiality of
 15 communications in electronic storage at a communications facility.” *Theofel v. Farey-Jones*, 359
 16 F.3d 1066, 1072 (9th Cir. 2003). The SCA establishes legal processes that government agencies
 17 must follow in order to obtain certain types of information from a service provider such as
 18 Twitter, which have not been followed here. The basic subscriber information the CBP
 19 Summons seeks—such as the user’s name and address—can be obtained “us[ing] an
 20 administrative subpoena authorized by a Federal or State statute.” 18 U.S.C. § 2703(c)(2). But
 21 the CBP Summons is not a valid administrative subpoena because, among other defects, it
 22 exceeds the scope of CBP’s authority under 19 U.S.C. § 1509.

23 64. For the foregoing reasons, the Court should enjoin Defendants from taking any
 24 further action to enforce the CBP Summons and declare it to be an unlawful exercise of
 25 Defendants’ authority, in contravention of 15 U.S.C. § 1509 and the SCA. Such relief is
 26 warranted under, among other laws, the APA because issuance, service, and enforcement of the
 27 subpoena is “not in accordance with law” and “in excess of statutory jurisdiction, authority, or
 28 limitations.” 5 U.S.C. § 706(2)(A), (C).

COUNT II

(U.S. Const. amend. I; Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202;
APA, 5 U.S.C. § 706)

**THE FIRST AMENDMENT BARS THE CBP SUMMONS ABSENT SATISFACTION
OF THE STRINGENT STANDARD FOR UNMASKING ANONYMOUS SPEAKERS**

65. Plaintiff herein incorporates by reference paragraphs 1-64 as if set forth fully herein.

66. Twitter provides a platform for speech for hundreds of millions of users. Its users Tweet about a broad range of topics, from a favorite sports team to the birth of a child to the latest executive order. Many of Twitter’s users choose to express themselves on the platform pseudonymously.

67. The CBP Summons seeks to force Twitter to disclose information that would identify, or likely lead to the identification of, a person (or group of persons) who has chosen to criticize the government pseudonymously and whose speech is potentially valuable since the person—as a self-described public employee—may be in the best position to “know what ails the agenc[y] for which [he or she] work[s].” *Dahlia v. Rodriguez*, 735 F.3d 1060, 1066-1067 (9th Cir. 2013) (quoting *Waters v. Churchill*, 511 U.S. 661, 674 (1994)).

68. Compelled disclosure of the identities of Twitter users who have engaged in pseudonymous speech would chill their exercise of the constitutionally protected right to speak anonymously. Moreover, independent of its users’ rights, Twitter’s actions in providing a platform for the dissemination of its users’ speech—including its decision to permit the publication of pseudonymous speech—is fully protected by the First Amendment. *See, e.g., Marcus v. Search Warrants*, 367 U.S. 717, 731-732 (1961); *cf., e.g., Arkansas Educ. Television Comm’n v. Forbes*, 523 U.S. 666, 674 (1998). When rights of free speech—especially anonymous free speech—are at stake, courts generally permit an organization or business to assert those rights on behalf of its members or customers. *See, e.g., Virginia v. American Booksellers Ass’n, Inc.*, 484 U.S. 383, 392-393 (1988) (permitting booksellers to assert First Amendment rights of buyers of adult-oriented books); *Publius v. Boyer-Vine*, 2017 WL 772146,

at *5 n.5 (E.D. Cal. Feb. 27, 2017) (collecting cases holding that entities such as websites can assert the First Amendment rights of their anonymous users).

69. The decision to speak anonymously or pseudonymously is protected by the First Amendment. As the Supreme Court has explained, “an author’s decision to remain anonymous, like other decisions concerning omissions or additions to the content of a publication, is an aspect of the freedom of speech protected by the First Amendment.” *McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 342 (1995). “Anonymity is a shield from the tyranny of the majority. It thus exemplifies the purpose behind the Bill of Rights, and of the First Amendment in particular: to protect unpopular individuals from retaliation—and their ideas from suppression—at the hand of an intolerant society.” *Id.* at 357.

70. A time-honored tradition of pseudonymous free speech on matters of public moment runs deep in the political life of America. “Undoubtedly the most famous pieces of American political advocacy are *The Federalist Papers*, penned by James Madison, Alexander Hamilton, and John Jay, but published under the pseudonym ‘Publius.’” *In re Anonymous Online Speakers*, 661 F.3d 1168, 1172-73 (9th Cir. 2011) (citing *McIntyre*, 514 U.S. at 344 n.6).

71. The decision to maintain anonymity “may be motivated by fear of economic or official retaliation, by concern about social ostracism, or merely by a desire to preserve as much of one’s privacy as possible.” *Watchtower Bible and Tract Soc’y of New York, Inc. v. Village of Stratton*, 122 S. Ct. 2080, 2089-90 (2002) (internal citation omitted). In the present case, there is reason for concern that the CBP Summons itself may reflect the very sort of official retaliation that can result from speech that criticizes government officials and agencies. Because of the potential for retaliation and ostracism, “[t]here can be no doubt that [requiring identification of pseudonymous authors] would tend to restrict freedom to distribute information and thereby freedom of expression.” *Talley v. California*, 362 U.S. 60, 64-65 (1960); *see also* (*WIN*) *Washington Initiatives Now v. Rippie*, 213 F.3d 1132, 1139 (9th Cir. 2000) (“Depriving individuals of ... anonymity is ... ‘a broad intrusion, discouraging truthful, accurate speech by those unwilling to [disclose their identities] and applying regardless of the character or strength of an individual’s interest in anonymity.’”) (quoting *American Constitutional Law Found., Inc. v.*

1 *Meyer*, 120 F.3d 1092, 1103 (10th Cir. 1997)); *see also Am. Civil Liberties Union of Nevada v.*
 2 *Heller*, 378 F.3d 979, 988 (9th Cir. 2004).

3 72. These First Amendment interests are at their zenith when, as here, the speech at
 4 issue touches on matters of public political life. Political expression “occupies the core of the
 5 protection afforded by the First Amendment” and must be afforded the highest level of First
 6 Amendment protection. *McIntyre*, 514 U.S. at 346; *see also Mills v. Alabama*, 384 U.S. 214,
 7 218 (1966) (“[T]here is practically universal agreement that a major purpose of that Amendment
 8 was to protect the free discussion of governmental affairs.”); *New York Times Co. v. Sullivan*,
 9 376 U.S. 254, 270 (1964) (a case should be considered “against the background of a profound
 10 national commitment to the principle that debate on public issues should be uninhibited, robust,
 11 and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly
 12 sharp attacks on government and public officials.”).

13 73. These protections for anonymous and pseudonymous political speech are as
 14 robust on the Internet as any other mode of speech. The Supreme Court has unequivocally held
 15 that speech on the Internet is entitled to the highest form of First Amendment protection. *See*
 16 *Reno v. ACLU*, 521 U.S. 844, 870 (1997). As the Supreme Court aptly recognized, through the
 17 Internet and interactive services such as Twitter, “any person with a phone line can become a
 18 town crier with a voice that resonates farther than it could from any soapbox. Through the use of
 19 Web pages, mail exploders, and newsgroups, the same individual can become a pamphleteer.”
 20 *Id.*; *see also In re Anonymous Online Speakers*, 661 F.3d at 1173 (“Although the Internet is the
 21 latest platform for anonymous speech, online speech stands on the same footing as other
 22 speech.”). “As with other forms of expression, the ability to speak anonymously on the Internet
 23 promotes the robust exchange of ideas and allows individuals to express themselves freely
 24 without ‘fear of economic or official retaliation ... [or] concern about social ostracism.’” *In re*
 25 *Anonymous Online Speakers*, 661 F.3d at 1173 (quoting *McIntyre*, 514 U.S. at 341-342).

26 74. Compelling Twitter to disclose information that would identify or lead to the
 27 identification of the person(s) who established and use the @ALT_USCIS account would chill
 28 the expression of particularly valuable political speech—namely speech by current or former

public employees, or others with special insight into operations of our government. The Constitution does not permit a government agency to suppress dissent voiced by current or former employees in their private capacity—especially when such efforts exceed the agency’s statutory authority. “[C]itizens do not surrender their First Amendment rights by accepting public employment.” *Lane v. Franks*, 134 S. Ct. 2369, 2374 (2014). Indeed, “[t]here is a significant First Amendment interest in encouraging public employees, who have special access to facts relevant to debates on issues of public concern, to speak freely and make that information available.” *Johnson v. Multnomah Cty., Or.*, 48 F.3d 420, 424 (9th Cir. 1995). “[S]peech by public employees on subject matter related to their employment holds special value precisely because those employees gain knowledge of matters of public concern through their employment.” *Franks*, 134 S. Ct. at 2378-2381. “It may often be the case that, unless public employees are willing to blow the whistle, government corruption and abuse would persist undetected and undeterred.” *Dahlia*, 735 F.3d at 1066-1067. “The interest at stake is as much the public’s interest in receiving informed opinion as it is the employee’s own right to disseminate it.” *San Diego v. Roe*, 543 U.S. 77, 82 (2004).

75. In light of the compelling First Amendment interests at stake, Defendants must satisfy “stringent standards” before using a subpoena or other compulsory legal process to attempt to unmask the identity of the person(s) who established and use the @ALT_USCIS account. *Mason Awtry v. Glassdoor, Inc.*, 2016 WL 1275566, at *1 (N.D. Cal. Apr. 1, 2016); see *In re Anonymous Online Speakers*, 661 F.3d at 1778 (“[T]he nature of the speech should be a driving force in choosing a standard by which to balance the rights of anonymous speakers” against the interests of those seeking disclosure, with political speech warranting “imposition of a heightened standard”). In particular, Defendants must demonstrate that (1) “there is a real evidentiary basis for believing” that some criminal or civil offense has been committed, *Highfields Capital Mgmt., L.P. v. Doe*, 385 F. Supp. 2d 969, 975-976 (N.D. Cal. 2005); (2) revealing the identity of the speaker(s) is “necessary”—that is, that it is the least restrictive means for investigating that offense, *Glassdoor, Inc.*, 2016 WL 1275566, at *16; *Art of Living Foundation v. Does 1-10*, 2011 WL 5444622, *10 (N.D. Cal. Nov. 9, 2011); (3) Defendants’

1 demand for this information is not motivated by a desire to suppress free speech; and (4) the
 2 interests of pursuing that investigation outweigh the important First Amendment rights of Twitter
 3 and its users, *Highfields*, 385 F. Supp. 2d at 975-976. *See also Doe No. 1 v. Cahill*, 884 A.2d
 4 451 (Del. 2005) (preventing disclosure of identity of anonymous online speaker); *Dendrite*
 5 *Intern., Inc. v. Doe No. 3*, 775 A.2d 756 (N.J. Super. 2001) (same). The heightened showing
 6 required for such compulsory legal process is not only supported by substantial judicial
 7 precedent, but also is consistent with the special procedures erected in other contexts to protect
 8 First Amendment rights. *E.g., Makaeff v. Trump Univ., LLC*, 736 F.3d 1180, 1182-1183 (9th
 9 Cir. 2013) (California’s anti-SLAPP statute “establish[es] a summary-judgment-like procedure
 10 available at an early stage of [a] litigation that poses a potential chilling effect on speech-related
 11 activities” (internal quotation omitted)); 28 C.F.R. § 50.10(c)(1) (requiring subordinates in the
 12 Department of Justice to obtain the authorization of the Attorney General to issue a subpoena to
 13 a member of the news media, or to use a subpoena to obtain from a third party communications
 14 records or business records of a member of the news media).

15 76. Defendants have satisfied none of these requirements. To meet the first
 16 requirement, Defendants must “adduce *competent evidence*” that “address[es] *all* of the
 17 inferences of fact that [Defendants] would need to prove in order to [substantiate] at least one of
 18 the” offenses that Defendants believe has been committed. *Highfields Capital Mgmt., L.P.*, 385
 19 F. Supp. at 975. Defendants have fallen far short of this standard, given that they have neither
 20 specified any offense they are purportedly investigating nor presented *any* evidence in support of
 21 any element of any such offense.

22 77. Defendants have likewise failed to demonstrate that unmasking the identity of the
 23 @ALT_USCIS accountholder(s) is the least restrictive way to investigate any offense or offenses
 24 that they believe were committed. To establish that the CBP Summons is “necessary,”
 25 Defendants must explain why other investigatory tools they have deployed have fallen short,
 26 leaving Defendants with no choice but to pierce @ALT_USCIS’s pseudonymity. *E.g.*,
 27 *Glassdoor, Inc.*, 2016 WL 1275566, at *16; *Art of Living Foundation*, 2011 WL 5444622, at *10.
 28 Defendants have not come close to making that showing.

78. Defendants' failure to establish that some offense within the law enforcement purview of CBP was actually committed and that the CBP Summons is necessary to investigate that offense likewise confirms that Defendants have failed to demonstrate that the summons is not motivated by a desire to suppress free speech, or that Defendants' need to unmask the identity of the @ALT_USCIS accountholder(s) outweighs the harm that doing so would cause to the First Amendment rights of Twitter and its users.

79. For the foregoing reasons, the Court should enjoin Defendants from taking any further action to enforce the CBP Summons and—absent the requisite showing—declare it to be a violation of the rights of Twitter and its users under the First Amendment. Such relief is warranted under, among other laws, the APA, because issuance, service, and enforcement of the CBP Summons is “contrary to constitutional right.” 5 U.S.C. § 706(2)(B).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

a. Declare that the CBP Summons is unlawful and unenforceable because Defendants issued it for reasons not authorized by 19 U.S.C. § 1509 and because it demands production of documents that Defendants are not authorized to demand or obtain under 19 U.S.C. § 1509, and further declare that the CBP Summons violates the Administrative Procedure Act as not in accordance with law, 5 U.S.C. § 706(2)(A), and “in excess of statutory jurisdiction, authority, or limitations,” *id.* § 706(2)(C).

b. Declare that the CBP Summons is unlawful and unenforceable because it violates the First Amendment rights of both Twitter and its users by seeking to unmask the identity of one or more anonymous Twitter users voicing criticism of the government on matters of public concern without Defendants having satisfied the stringent standards for piercing a speaker's anonymity, and further declare that the CBP Summons violates the Administrative Procedure Act as “contrary to constitutional right,” 5 U.S.C. § 706(2)(B);

c. Issue an order vacating and nullifying the CBP Summons, enjoining Defendants or their agents from enforcing the CBP Summons, and declaring that Twitter has no obligation to comply with the CBP Summons;

- 1 d. Award Plaintiff its costs and reasonable attorney's fees as appropriate; and
2 e. Grant such other relief as this Court may deem just and proper.

3
4 Dated: April 6, 2017

Respectfully submitted,

5 /s/ Mark D. Flanagan

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26
27 *Counsel for Plaintiff Twitter, Inc.*
28

Exhibit A



U.S. DEPARTMENT OF HOMELAND SECURITY
Bureau of Customs and Border Protection

FACSIMILE TRANSMITTAL

CD 2110-035

Date:

Control Number:

TO	Name:	<i>Trust & Safety - Legal Policy</i>
	Organization:	<i>Twitter Inc</i>
	Fax Number:	[REDACTED]
	Number of Pages (including cover):	<i>4</i>
FROM	Sender:	<i>SA</i> [REDACTED]
	Originating Location:	<i>DHS Customs and Border Protection</i>
	Return FAX Number:	[REDACTED]
	Voice Number:	[REDACTED]
REMARKS	<i>Please complete the Acknowledgment of Receipt and return to Fax # [REDACTED]</i>	

Important: This document may contain confidential and sensitive U.S. Government information. Please deliver it immediately only to the intended recipient(s) listed above. The Bureau of Customs and Border Protection has not approved the documents review, retransmission, dissemination or use by anyone other than the intended recipient(s).

To (Name, Address, City, State, Zip Code) Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	DEPARTMENT OF HOMELAND SECURITY SUMMONS NOTICE to Appear and/or Produce Records 19 U.S.C. § 1509
<p>Attached is a copy of a summons served by U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP), both agencies within the Department of Homeland Security (DHS), to examine records or to request testimony relating to records of your business transactions or affairs which have been made or kept by the person named in Block 1 of the summons.</p> <p>If you object to the examination of these records, you may stay (prevent) examination of the records until a summons enforcement proceeding is commenced in court. Compliance with the summons will be stayed if, not later than the day before the date indicated in Block 2 of the summons, you advise the person summoned (the person named in Block 1), in writing, not to comply with the summons, and you send a copy of that notice by registered or certified mail to the CBP Officer or ICE Special Agent who issued the summons at the address shown in Block 6 of the summons.</p> <p>CBP or ICE may begin an action to enforce the summons in the appropriate United States District Court. In such cases, you will be notified and you will have the right to intervene and present your objections before the court. The court will decide whether the person summoned should be required to comply with the summons.</p> <p>If the court issues an order to comply with the summons and the person summoned fails to comply, the court may punish such failure as a contempt of court. Other sanctions may be provided by law.</p> <p>If you have any questions regarding this matter, please contact the CBP Officer or ICE Special Agent before whom the summoned person is required to appear. The CBP Officer's or ICE Special Agent's name and telephone number are given in Block 2 of the summons.</p>	

1. To (Name, Address, City, State, Zip Code) Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	DEPARTMENT OF HOMELAND SECURITY SUMMONS to Appear and/or Produce Records 19 U.S.C. § 1509
Summons Number [REDACTED]	Case Number: [REDACTED]

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

- (A) ☐ **APPEAR** before the U.S. Customs and Border Protection (CBP) Officer or U.S. Immigration and Customs Enforcement (ICE) Special Agent named in Block 2 at the place, date, and time indicated to testify and give information.
- (B) ☒ **PRODUCE** the records (including statements, declarations, and other documents) indicated in Block 3 before the CBP Officer or ICE Special Agent named in Block 2 at the place, date, and time indicated.


Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry to ascertain the correctness of entries, to determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure compliance with the laws or regulations administered by CBP and ICE.

Failure to comply with this summons will render you liable to proceedings in a U.S. District Court to enforce compliance with this summons as well as other sanctions.

2. (A) CBP Officer or ICE Special Agent before whom you are required to appear Name [REDACTED] Title Special Agent Address 1300 Pennsylvania Ave. N.W. Room 8.3 Washington D.C. 20229 Telephone Number [REDACTED]	(B) Date 03/13/2017 (C) Time 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
3. Records required to be produced for inspection All records regarding the twitter account @ALT_USCIS to include, User names, account login, phone numbers, mailing addresses, and I.P addresses.	

You are requested not to disclose the existence of this summons for an indefinite period of time. Any such disclosure will impede this investigation and thereby interfere with the enforcement of federal law.

Issued under authority of section 509, Tariff Act of 1930, as amended by Public law 95-410 (19 U.S.C. § 1509); 44 F.R. 2217; Homeland Security Act of 2002

4. Name of person authorized to serve this summons or any other CBP Officer or ICE Special Agent Special Agent [REDACTED]	5. Date of issue 03/14/2017 [REDACTED]
	6. Name, title, address, and telephone number of person issuing this summons Name [REDACTED] Title Special Agent in Charge Address 11606 City Hall Promenade Suite 400, Miramar, FL 33025 Telephone Number [REDACTED]

If you have any questions regarding this summons, contact the CBP Officer or ICE Special Agent identified in Block 2.

CERTIFICATE OF SERVICE AND ACKNOWLEDGMENT OF RECEIPT

A. CERTIFICATE OF SERVICE OF SUMMONS			
I certify that I served the summons on the front of this form as follows:			
<input type="checkbox"/> I delivered a copy of the summons to the person to whom it was directed, as follows:	Address or Location	Date	
		Time	
<input checked="" type="checkbox"/> (For corporations, partnerships, and unincorporated associations which may be sued under a common name) I delivered a copy of the summons to an officer, managing or general agent, or agent authorized to accept service of process as follows:	Address or Location Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	Date	
		Time	
	Name of person to whom the summons was delivered		<input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
	Faxing to [REDACTED] (attn: Trust & Safety - Legal Policy)		
S T Special Agent	[REDACTED]	Date	
		03/13/2017	

B. ACKNOWLEDGMENT OF RECEIPT		
I acknowledge receipt of a copy of the summons on the front of this form.		
Signature		
Title	Date	Time
		<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS	DEFENDANTS
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)
(c) Attorneys (Firm Name, Address, and Telephone Number)	NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																												
<table><tr><td>1 U.S. Government Plaintiff</td><td>3 Federal Question (U.S. Government Not a Party)</td></tr><tr><td>2 U.S. Government Defendant</td><td>4 Diversity (Indicate Citizenship of Parties in Item III)</td></tr></table>	1 U.S. Government Plaintiff	3 Federal Question (U.S. Government Not a Party)	2 U.S. Government Defendant	4 Diversity (Indicate Citizenship of Parties in Item III)	<table><tr><td></td><td>PTF</td><td>DEF</td><td></td><td>PTF</td><td>DEF</td></tr><tr><td>Citizen of This State</td><td>1</td><td>1 Incorporated or Principal Place of Business In This State</td><td>4</td><td>4</td><td></td></tr><tr><td>Citizen of Another State</td><td>2</td><td>2 Incorporated and Principal Place of Business In Another State</td><td>5</td><td>5</td><td></td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td>3</td><td>3 Foreign Nation</td><td>6</td><td>6</td><td></td></tr></table>		PTF	DEF		PTF	DEF	Citizen of This State	1	1 Incorporated or Principal Place of Business In This State	4	4		Citizen of Another State	2	2 Incorporated and Principal Place of Business In Another State	5	5		Citizen or Subject of a Foreign Country	3	3 Foreign Nation	6	6	
1 U.S. Government Plaintiff	3 Federal Question (U.S. Government Not a Party)																												
2 U.S. Government Defendant	4 Diversity (Indicate Citizenship of Parties in Item III)																												
	PTF	DEF		PTF	DEF																								
Citizen of This State	1	1 Incorporated or Principal Place of Business In This State	4	4																									
Citizen of Another State	2	2 Incorporated and Principal Place of Business In Another State	5	5																									
Citizen or Subject of a Foreign Country	3	3 Foreign Nation	6	6																									

IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment Of Veteran's Benefits 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excludes Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury - Medical Malpractice	PERSONAL INJURY 365 Personal Injury - Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability	625 Drug Related Seizure of Property 21 USC § 881 690 Other LABOR 710 Fair Labor Standards Act 720 Labor/Management Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Employee Retirement Income Security Act IMMIGRATION 462 Naturalization Application 465 Other Immigration Actions	422 Appeal 28 USC § 158 423 Withdrawal 28 USC § 157 PROPERTY RIGHTS 820 Copyrights 830 Patent 840 Trademark SOCIAL SECURITY 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g)) FEDERAL TAX SUITS 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS-Third Party 26 USC § 7609	375 False Claims Act 376 Qui Tam (31 USC § 3729(a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 850 Securities/Commodities/Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes
REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	CIVIL RIGHTS 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/Accommodations 445 Amer. w/Disabilities-Employment 446 Amer. w/Disabilities-Other 448 Education	PRISONER PETITIONS Habeas Corpus: 463 Alien Detainee 510 Motions to Vacate Sentence 530 General 535 Death Penalty Other: 540 Mandamus & Other 550 Civil Rights 555 Prison Condition 560 Civil Detainee-Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)	1 Original Proceeding	2 Removed from State Court	3 Remanded from Appellate Court	4 Reinstated or Reopened	5 Transferred from Another District (specify)	6 Multidistrict Litigation-Transfer	8 Multidistrict Litigation-Direct File
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VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
	Brief description of cause:

VII. REQUESTED IN COMPLAINT:	CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: Yes No
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VIII. RELATED CASE(S), IF ANY (See instructions):	JUDGE	DOCKET NUMBER
--	-------	---------------

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2) (Place an "X" in One Box Only)	SAN FRANCISCO/OAKLAND	SAN JOSE	EUREKA-MCKINLEYVILLE
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DATE:	SIGNATURE OF ATTORNEY OF RECORD:
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CIVIL COVER SHEET

Attachment

Part I (c) Attorneys for Plaintiffs (Firm Name, Address, and Telephone Number)

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